

## Summary of Changes Approved September through February 2008

This summary lists changes made since the 2007 Annual Update of the *Common Manual* was printed.

Change bars denote the latest policy changes, which were approved February 21, 2008.

Changes made before the 2007 Annual Update was printed are shown in appendix H of the manual.

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
<b>Chapter 2: About the FFELP</b>			
2.3.C Common Forms	Deletes reference to the Ad Hoc Standardization Committee, adds that NCHelp developed and updates the common default aversion and claim forms, and updates the listing of common forms.	September 20, 2007	967/142
<b>Chapter 3: Lender Participation</b>			
3.5.A Federal Origination Fee and Lender Fee	States that, beginning with loans first disbursed on or after October 1, 2007, a lender is charged a lender fee equal to 1.0% of the principal amount of each FFELP loan made.	Loans first disbursed on or after October 1, 2007.	984/145
3.5.D Reporting Loan Information	Requires that a lender report enrollment and loan status information, or any loan-related information that the Department may require, by the deadline established by the Department.	Enrollment or loan status changes submitted to the guarantor or to the Department on or after July 1, 2008 unless implemented earlier by the lender and the guarantor on or after November 1, 2007. <i>This trigger event aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i>	1007/147
3.9 Exceptional Performer Designation 3.9.A Applying for the Designation 3.9.B Department Determination of Request for Designation	Removes from the manual all language that relates to an exceptional performer designation for a lender or servicer, as well as all exceptional performer claim filing requirements.	Claims originally filed by a lender on or after October 1, 2007.	1005/147
<b>Chapter 4: School Participation</b>			
4.1.A Establishing Eligibility	Clarifies that a school may certify loans of different types (Stafford or PLUS) in separate programs for the same enrollment period and same student.	Stafford and PLUS loans certified on or after December 1, 2006, unless implemented earlier by the school.	980/144

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
4.4 Providing Information to Students	Places greater emphasis on the borrower's right to choose a FFELP lender, and incorporates new regulatory requirements regarding the use of "recommended lender lists."  Clarifies how schools that choose <i>not</i> to recommend lenders may still provide information to assist borrowers with their choice of lender.	Recommended lender lists provided to students and parents on or after July 1, 2008.  Certifications based on the borrower's choice of lender and/or guarantor, effective retroactive to the implementation of the <i>Common Manual</i> .  Ensuring that there is no delay in certification and/or processing of the loan based on the borrower's choice of lender or guarantor, effective for loans certified by the school on or after July 1, 2008.	1009/147
<b>Chapter 5: Borrower Eligibility</b>			
5.1.B Student Eligibility Requirements	States that, in order to receive any Title IV aid other than a parent PLUS loan, the student must certify, as part of the FAFSA, a statement of educational purpose. To receive a parent PLUS loan without completing a FAFSA, the student must complete and submit to the school a separate statement of educational purpose.	Retroactive to the implementation of the <i>Common Manual</i> .	986/145
5.1.B Student Eligibility Requirements	Clarifies that the student must be enrolled or accepted for enrollment on at least a half-time basis to be eligible for a Stafford or PLUS loan.	Retroactive to the implementation of the <i>Common Manual</i> .	968/142
5.1.C Graduate or Professional Student and Parent PLUS Loan Borrower Eligibility Requirements	States that each PLUS borrower must certify a statement of educational purpose, which is fulfilled by the borrower's certification of the PLUS MPN. Revised policy also corrects the regulatory citation for this requirement.	Retroactive to the implementation of the <i>Common Manual</i> .	969/142
5.2 Federal Data Matches 5.2.A Citizenship Data Match 5.2.D Prior Overpayment 5.2.E Prior Default	Removes from Appendix F, FFELP Community Initiatives, the information on the NSLDS data match and adds it to Section 5.2 Federal Data Matches. Also adds information on the DOJ data match, the USCIS data match, and the VA data match. Current references in 5.2.A to the Immigration and Naturalization Service (INS) have been replaced with references to the USCIS, which now performs the citizenship data match.	Implementation of any federal data match is determined by the Department.	981/144
5.2.A Citizenship Data Match	Updates the information on acceptable documentation for verification of eligible U.S. Citizens and Nationals and Eligible Noncitizens.	Implementation of a federal citizenship form is determined by the Department.	1000/146
5.2.A Citizenship Data Match	Adds victims of human trafficking and their relatives as eligible noncitizens for purposes of determining eligibility for Title IV assistance.	FFELP loans certified by the school on or after May 11, 2006.	992/146
5.11 Student Enrollment Requirements	States that a course of study that uses direct assessment rather than credit hours or clock hours is not an eligible course for purposes of teacher certification or recertification.	September 8, 2006.	993/146

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
<b>Chapter 6: School Certification</b>			
6.2 Determining the Loan Period	States that a school may include a retroactive period in a loan period when certifying a Stafford or PLUS loan if the student completed the retroactive period on at least a half-time basis. Requires the school to ensure that a loan period that includes a retroactive period does not exceed the maximum allowable loan period as currently described in this section, and that it meets applicable criteria for determining the frequency of Stafford annual loan limits. Adds cross-references to other pertinent sections and text.	Publication date of the 03-04 FSA Handbook.	976/143
6.2 Determining the Loan Period	Clarifies that, if the student's loss of eligibility was based on a failure to meet satisfactory academic progress standards, the school must comply with its written satisfactory academic progress policy, if the written policy provides that the student's eligibility will be reinstated at a later point.	Publication date of the 96-97 FSA Handbook.	999/146
6.11.A Stafford Annual Loan Limits Figure 6-4 Stafford Undergraduate Annual and Aggregate Loan Limits	States that a dependent student who is taking preparatory coursework necessary for enrollment in an undergraduate program is eligible to borrow the base Stafford annual loan limit of \$2,625. An independent student, or a dependent student whose parent is not eligible for a PLUS loan, who is taking preparatory coursework necessary for enrollment in an undergraduate program is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to \$6,625, of which no more than \$2,625 may consist of subsidized Stafford loan funds.  Updates Figure 6-4 to include the additional unsubsidized Stafford annual loan limit for an independent student, or a dependent student whose parent is not eligible for a PLUS loan, who is enrolled in preparatory coursework necessary for enrollment in an undergraduate program.	Loans first disbursed on or after July 1, 2007.	964/142
6.11.D Increased Unsubsidized Stafford Loan Limits for Health Profession Students	States that a health profession student must be enrolled at least half time to be eligible for increased unsubsidized Stafford loan limits.	Loan periods beginning on or after May 1, 1999.	965/142
6.11.F Prorated Loan Limits	States that loan proration is not required for a student completing coursework necessary for a professional credential or certification from a state if that credential or certification is required for employment as a teacher in an elementary or secondary school in that state.	Retroactive to the implementation of the <i>Common Manual</i> .	977/143

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
6.15 School Certification of the Loan	Places greater emphasis on the borrower's right to choose a FFELP lender, and incorporates new regulatory requirements regarding the use of "recommended lender lists."  Clarifies how schools that choose <i>not</i> to recommend lenders may still provide information to assist borrowers with their choice of lender.	Recommended lender lists provided to students and parents on or after July 1, 2008.  Certifications based on the borrower's choice of lender and/or guarantor, effective retroactive to the implementation of the <i>Common Manual</i> .  Ensuring that there is no delay in certification and/or processing of the loan based on the borrower's choice of lender or guarantor, effective for loans certified by the school on or after July 1, 2008.	1009/147
6.15.B Stafford Loan Certification 6.15.C PLUS Loan Certification	Clarifies that the student must be enrolled or accepted for enrollment on at least a half-time basis to be eligible for a Stafford or PLUS loan.	Retroactive to the implementation of the <i>Common Manual</i> .	968/142
6.15.C PLUS Loan Certification	Requires the school to provide to a Grad PLUS applicant information regarding his or her eligibility for a Stafford loan, comparative information on the two loan programs, and an opportunity to apply for the maximum Stafford eligibility, if he or she has not already done so.	Grad PLUS loans certified by the school on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.	1011/147
6.15.D Additional Unsubsidized Stafford Loan Certification for a Dependent Student	Clarifies that a dependent student enrolled in a school that participates in the PLUS loan program whose parent is unable to obtain a PLUS loan is eligible to borrow additional unsubsidized Stafford loan funds, not to exceed the student's maximum additional unsubsidized Stafford loan limit. A school does not have the option of denying the additional funds to an otherwise eligible student, unless the school's refusal to certify is based on a documented reason.	Retroactive to the implementation of the <i>Common Manual</i> .	970/142
6.15.D Additional Unsubsidized Stafford Loan Certification for a Dependent Student	Places into a bulleted format the list of exceptional circumstances that may prevent a dependent student's parent from obtaining a PLUS loan. Also clarifies that if the school refuses to certify a loan for which the student is eligible, or refuses to certify the full amount of unsubsidized loan funds for which the student is eligible, the school must document the reason.	Retroactive to the implementation of the <i>Common Manual</i> .	987/145
<b>Chapter 7: Loan Origination</b>			
7.6.A General Initial Disclosure Requirements	Removes the requirement that the lender disclose to the borrower in the initial disclosure, information on how the interest rate is calculated.	Disclosures provided by the lender to a borrower on or after July 1, 2006.	988/145
<b>Chapter 8: Loan Delivery</b>			
8.3 Required Authorizations	States that a school must obtain a parent PLUS borrower's written authorization to deliver parent PLUS loan funds directly to the student, in addition to any other authorization it must obtain from the student (e.g., an authorization to deliver funds to the student's bank account or to the student's stored-value card).	Publication date of the 97-98 FSA Handbook.	982/144

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
8.6 Managing Overawards	Clarifies that an overaward may occur not only from a student's receipt of additional Title IV funds, but also from the receipt of additional non-Title IV financial assistance, such as a scholarship or an alternative loan.	Retroactive to the implementation of the <i>Common Manual</i> .	989/145
8.7.E Late Delivery	Extends to 180 days the time frame for the delivery of a late disbursement of FFELP loan funds but eliminates the option for the school to obtain Department approval for a late delivery of loan funds after the 180-day period expires. Also extends the time frame for making a post-withdrawal disbursement of loan funds to 180 days after the school determines the student withdrew. A new Sub-subsection is added to the text to address the differences between the requirements for the post-withdrawal disbursement of Title IV grant funds and the post-withdrawal disbursement of Title IV loan funds.	Late disbursements delivered by the school on or after July 1, 2008. Post-withdrawal disbursements delivered by the school on or after July 1, 2008.	994/146
Figure 8-6 Delivery or Return of Loan Funds	Adds a footnote clarifying that the required authorization for the school to deliver loan funds received by EFT or master check is included on the MPN. However, if the MPN is signed by a third party with power of attorney for the borrower, the school must obtain a separate authorization from the borrower, except in the case of a study-abroad student.	Retroactive to the implementation of the Federal Stafford Loan Master Promissory Note.	971/142
<b>Chapter 9: School Reporting Responsibilities and the Return of Title IV Funds</b>			
9.5 Return of Title IV Funds	Clarifies that refund information must be provided <i>upon request</i> , and places the requirements into a bulleted format for clarity.	Retroactive to the implementation of the <i>Common Manual</i> .	1013/147
9.5.A Return Amounts for Title IV Grant and Loan Programs	Extends to 180 days the time frame for the delivery of a late disbursement of FFELP loan funds but eliminates the option for the school to obtain Department approval for a late delivery of loan funds after the 180-day period expires. Also extends the time frame for making a post-withdrawal disbursement of loan funds to 180 days after the school determines the student withdrew. A new Sub-subsection is added to the text to address the differences between the requirements for the post-withdrawal disbursement of Title IV grant funds and the post-withdrawal disbursement of Title IV loan funds.	Late disbursements delivered by the school on or after July 1, 2008. Post-withdrawal disbursements delivered by the school on or after July 1, 2008.	994/146
<b>Chapter 10: Loan Servicing</b>			
10.8.A Standard Repayment Schedule	Aligns Subsection 10.8.A with Section 10.8, which requires a lender to establish a standard repayment schedule for a borrower who does not select another repayment schedule within 45 days of being notified of his or her options.	Repayment schedules requested or established on or after October 7, 1998.	1012/147

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10.9.C Excess Interest Rebates	Revises Subsection 10.9.C to remove historic information on excess interest rebates, called “windfall profits,” which were last required in 1994. This information is present in Section H.2 of the History Appendix. The historic information is being replaced with the current requirement for excess interest rebates (as currently listed in Figure A-3 in Appendix A), effective for loans first disbursed on or after April 1, 2006.	December 20, 2007	990/145
10.10.B Capitalization Frequency	Permits the lender to capitalize unsubsidized interest that accrues on a Consolidation loan during periods of in-school deferment only at the end of the deferment period, rather than on a quarterly basis, as previously allowed.	Unsubsidized interest capitalized on Consolidation loans for periods of in-school deferment on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007.	1006/147
<b>Chapter 11: Deferment and Forbearance</b>			
11.1.A General Deferment Eligibility Criteria	Expands existing guidance by adding to the <i>Common Manual</i> an explanation of how lenders may grant administrative forbearance to a loan during a time when a nondisabled comaker is solely responsible for the repayment of the loan.	Administrative forbearances processed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	995/146
11.3.A Eligibility Criteria—Armed Forces	States that a borrower or a borrower’s representative must request the armed forces and the military deferments.	Armed forces and military deferments granted on or after July 1, 2008, can be implemented early by the lender on or after November 1, 2007. <i>This trigger event aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i>	1008/147
11.3.A Eligibility Criteria—Armed Forces 11.3.C Length of Deferment—Armed Forces	Moves text concerning Operations Desert Shield/ Desert Storm to the history appendix.	September 20, 2007	974/142
11.4.A Eligibility Criteria—Economic Hardship	States that a borrower who is receiving a payment or benefit under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance is eligible to receive an economic hardship deferment.	Economic hardship deferments granted by the lender on or after January 1, 2008, unless implemented earlier by the lender.	944/143

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
11.8.B Deferment Documentation— Military	States that a borrower or a borrower's representative must request the armed forces and the military deferments.	Armed forces and military deferments granted on or after July 1, 2008, can be implemented early by the lender on or after November 1, 2007. <i>This trigger event aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i>	1008/147
11.19.F Forbearance of a Loan for a Comaker during the TPD Conditional Period	Expands existing guidance by adding to the <i>Common Manual</i> an explanation of how lenders may grant administrative forbearance to a loan during a time when a nondisabled comaker is solely responsible for the repayment of the loan.	Administrative forbearances processed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	995/146
<b>Chapter 12: Due Diligence in Collecting Loans</b>			
12.4.E Endorser Due Diligence	Aligns the Manual's text with the history Appendix to specify that when a loan is discharged due to the borrower's total and permanent disability, bankruptcy, closed school, false certification, or unpaid refund, the endorser is released from his or her obligation to repay the loan. Also specifies that an endorser is released from his or her obligation to repay the loan when he or she files an adversary proceeding before the bankruptcy court on the basis of undue hardship and the loan obligation is discharged, and when he or she is determined to be totally and permanently disabled after the loan becomes delinquent.	Retroactive to the implementation of the <i>Common Manual</i> .	983/144
<b>Chapter 13: Claim Filing, Discharge, and Forgiveness</b>			
13.1.A Claim Filing Requirements	Removes from the manual all language that relates to an exceptional performer designation for a lender or servicer, as well as all exceptional performer claim filing requirements.	Claims originally filed by a lender on or after October 1, 2007.	1005/147
13.1.D Claim File Documentation	Removes reference to the assignment of a proof of claim and replaces it with references to the Transfer of Claim Other Than For Security form that a guarantor must file and the Notice of Transfer of Claim Other Than For Security form that a lender/servicer will receive once the bankruptcy court processes the transfer.	Original assignment of a proof of claim filed by the lender on or after July 1, 2008, unless implemented earlier by the guarantor.	1010/147
13.2 Claim Returns 13.2.A Refiling the Returned Claim 13.3.A Claim Payment Amount 13.3.B Amount of Interest Purchased on Eligible Claims 13.3.C Amount of Interest Purchased on Returned Claims 13.5 Claim Repurchase	Removes from the manual all language that relates to an exceptional performer designation for a lender or servicer, as well as all exceptional performer claim filing requirements.	Claims originally filed by a lender on or after October 1, 2007.	1005/147

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
13.8 Discharge	Adds information about the Request For Reimbursement Due to Partial Discharge of a Federal Consolidation Loan form that a lender may use to request a partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge due to disability (only for comade Consolidation loans), closed school, death, or false certification discharge. Incorporates a new chart that helps lenders determine what information must be provided on this form.	Lenders may have begun using the Request For Reimbursement Due to Partial Discharge of a Federal Consolidation Loan form upon the applicable publication date.	963/142
13.8.A Bankruptcy	Removes reference to the assignment of a proof of claim and replaces it with references to the Transfer of Claim Other Than For Security form that a guarantor must file and the Notice of Transfer of Claim Other Than For Security form that a lender/ servicer will receive once the bankruptcy court processes the transfer.	Original assignment of a proof of claim filed by the lender on or after July 1, 2008, unless implemented earlier by the guarantor.	1010/147
13.8.F Total and Permanent Disability	Expands existing guidance by adding to the <i>Common Manual</i> an explanation of how lenders may grant administrative forbearance to a loan during a time when a nondisabled comaker is solely responsible for the repayment of the loan.	Administrative forbearances processed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	995/146
<b>Chapter 14: Violations, Penalties, and Cures</b>			
14.3.B Non-Default Claims 14.4.A Original Filing Deadline 14.4.B Refile Deadline	Removes from the manual all language that relates to an exceptional performer designation for a lender or servicer, as well as all exceptional performer claim filing requirements.	Claims originally filed by a lender on or after October 1, 2007.	1005/147
<b>Chapter 15: Federal Consolidation Loans</b>			
15.1.A Agreement to Guarantee Federal Consolidation Loans	States that, beginning with loans first disbursed on or after October 1, 2007, a lender is charged a lender fee equal to 1.0% of the principal amount of each FFELP loan made.	Loans first disbursed on or after October 1, 2007.	984/145
15.1.A Agreement to Guarantee Federal Consolidation Loans	Clarifies that any failure on the part of a lender to fulfill due diligence requirements on a Consolidation loan may also result in a loss of eligibility for any special allowance payments that might otherwise apply to that Consolidation loan.	Retroactive to the implementation of the <i>Common Manual</i> .	978/143
15.3.A Providing Consolidation Loan Information	Revises language to acknowledge electronic delivery methods. Also suggests that consolidating lenders provide Consolidation loan applicants with a complete explanation of any applicable loss of loan benefits if a borrower is consolidating loans from other loan programs into a Federal Consolidation loan and an explanation of any special benefits the lender may offer on Federal Consolidation loans and the criteria for obtaining those benefits.	July 1, 2008, unless implemented earlier by the lender.	979/144
15.3.C Reviewing the Loan Verification Certificate	Incorporates more detailed guidance from DCL GEN-07-03/FP-07-07 regarding when a loan holder may decline to certify an LVC and when the loan holder must notify the Federal Student Aid Financial Partners staff of its decision not to complete an LVC.	Consolidation Loan Verification Certificates (LVC) received by a loan holder on or after May 22, 2007.	985/145



Common Manual Section	Description of Change	Effective Date/Triggering Event	#
<b>Appendix F: FFELP Community Initiatives</b>			
National Student Loan Data System (NSLDS)	Removes from Appendix F, FFELP Community Initiatives, the information on the NSLDS data match and adds it to Section 5.2 Federal Data Matches.	Implementation of any federal data match is determined by the Department.	981/144
<b>Appendix G: Glossary</b>			
Change of Control	Adds that it is considered a change of control if a school changes from a for-profit entity to a nonprofit entity, or vice versa.	Retroactive to the implementation of the <i>Common Manual</i> .	1001/146
Exceptional Performer	Removes from the manual all language that relates to an exceptional performer designation for a lender or servicer, as well as all exceptional performer claim filing requirements.	Claims originally filed by a lender on or after October 1, 2007.	1005/147
Lender Fee	States that, beginning with loans first disbursed on or after October 1, 2007, a lender is charged a lender fee equal to 1.0% of the principal amount of each FFELP loan made.	Loans first disbursed on or after October 1, 2007.	984/145
Post-Deferment Grace Period	Adds a reference in the appendix G entry entitled "Post-Deferment Grace Period" to additional information in the history appendix on a post-deferment grace period for military personnel who served in Operations Desert Shield/Desert Storm.	September 20, 2007	974/142
<b>Appendix H: History of the FFELP and the <i>Common Manual</i></b>			
H.2 History of Excess Interest Rebates and Variable Interest Rate Conversions Figure H-1 Summary of Variable-Rate Conversion Provisions	<p>States in Section H.2 that lenders, based on October 1994 guidance from the Department in DCL 94-L-171, were not permitted to adjust special allowance billings for loans for which the applicable interest rate was retroactively revised. However, the Department provided guidance to lenders in DCL 98-L-202 on March 1, 1998, to recalculate special allowance billings on loans subject to the variable rate conversion provisions for all or part of the period from July 23, 1992, to December 31, 1994.</p> <p>Also clarifies in Figure H-1 that the "Quarterly Variable Interest Rates" which have been moved from the third to the second column are to be used prior to conversion to a variable rate.</p> <p>For loans subject to conversion under the Higher Education Amendments of 1992 in Figure H-1, the annual variable interest rate for the period from July 1, 2006, through June 30, 2007, was corrected from 7.949% to 7.94%. For all loans subject to conversion under the Higher Education Amendments of 1986 and 1992, the annual variable interest rates for the period from July 1, 2007, through June 30, 2008, are added.</p>	The guidance for lenders to recalculate special allowance billings on loans, subject to the variable rate conversion provisions, for all or part of the period from July 23, 1992, to December 31, 1994, was effective on March 1, 1998. All revisions, except interest rate changes, to the chart are retroactive to the implementation of the <i>Common Manual</i> .	998/147
H.4 History of Statutory and Regulatory Waivers	Moves text concerning Operations Desert Shield/Desert Storm to the history appendix.	September 20, 2007	974/142

discharged). The lender also must request that the credit bureau remove any negative information regarding a loan discharged due to a closed school or false certification. For more information on closed school and false certification claims, see [subsections 13.8.B and 13.8.D](#).

[§682.402(d)(7)(iv) and (e)(2)(iv)]

- Other information required by federal or [state](#) law. [§682.208(b)(1)(v)]

A lender purchasing a FFELP loan must report the preceding information, as applicable, to a national credit bureau within 90 days of purchasing the loan. The lender must retain evidence of its credit bureau reporting. [§682.208(b)(2)]

If a borrower or [endorser](#) requests that the lender provide information on the repayment status of his or her loan to a credit bureau, the lender must do so within 30 days of the request. If a consumer dispute has been filed with a credit bureau, the lender must respond to a borrower's or endorser's request for information within 30 days. [§682.208(c)(1)]

A [guarantor](#) will report each loan it purchases as a [default claim](#) to all national credit bureaus. [§682.410(b)(5)]

### 3.5.D Reporting Loan Information Status Changes

A lender must report ~~enrollment and loan status changes~~ information, or any FFELP loan-related data to the guarantor or to the Department, as applicable, by the deadline established by the Department. A guarantor will accept a status change in any form or medium—as long as it includes the borrower's name and [Social Security number](#), status change and effective date, loan account number or ID number, and any other pertinent information.<sup>1</sup>

- ▲ Lenders may contact individual guarantors for more information on reporting loan status changes. See [section 1.5](#) for contact information.

For information on lender reporting of enrollment changes, see [subsection 10.1.B](#).

Some guarantors have additional or alternate requirements. These requirements are noted in [appendix C](#).

<sup>1</sup> Policy 1007 (Batch 147), approved February 21, 2008

### 3.5.E Reporting Loan Assignments, Sales, and Transfers

If a loan holder assigns or sells a loan, either the assignee or the assignor on behalf of the assignee must notify the guarantor of the change within 45 days of the [assignment](#) or [sale](#). The notification should provide the new holder's name, lender identification number (LID), address, and telephone number. A holder with more than one lender identification number must notify the guarantor if it changes a loan from one of its LIDs to another of its LIDs. [§682.208(e)(4)]

If a holder transfers the servicing on a loan from one [entity](#) to another, the holder must report the change to the guarantor within 45 days of the [transfer](#).

The assignment, sale, or transfer of a loan should be reported on the appropriate [guarantor](#) form or by an equivalent electronic process. If the holder wants to report an assignment, sale, or transfer using its own form or process, the format must contain all data elements required by the guarantor. If one holder acquires the entire portfolio of another holder due to a merger, acquisition, bank closing, or similar situation, it may not need to complete a guarantor form or list each of the loans being sold, but may work with the guarantor to establish an efficient and effective method of ensuring that the guarantor's records are updated to reflect the most current holder information.

- ▲ Lenders may contact individual guarantors for more information on alternative reporting options. See [section 1.5](#) for contact information.

Loans that are sold or transferred should not be reported to a guarantor as paid in full.

- The audit must examine the servicer’s financial management of its FFELP activities. [§682.416(e)(2)(ii)]
- The audit must be conducted in accordance with the *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions* issued by the U.S. General Accounting Office (GAO). [§682.416(e)(2)(iii)]
- If the servicer is a governmental entity, the audit must be conducted in accordance with the *Single Audit Act*. [§682.416(e)(3)]
- If the servicer is a nonprofit organization, the audit must be conducted in accordance with *OMB Circular A-133*. [§682.416(e)(4)]

An audit must be completed annually and submitted no later than 6 months after the end of the servicer’s fiscal year. [§682.416(e)(2)(iv)]

Lenders and servicers should consult the *Audit Guide: Compliance Audits (Attestation Engagements) for Lenders and Lender Servicers Participating in the Federal Family Education Loan Program*, published December 1996 for information about audit requirements.

### 3.9 Exceptional Performer Designation

A lender or lender servicer may seek an exceptional performer designation from the Department. In general, an exceptional performer will receive payment of 99% of outstanding principal and eligible interest on a default claim filed during the 12-month period following its receipt of a notice of designation. The receipt date for the exceptional performer notice of designation is assumed to be no later than 3 days after the date the notice is mailed—unless the lender or servicer is able to prove otherwise. [HEA 428I(b)(1); §682.415(a)(1)]

An exceptional performer designation for a lender or servicer with two or more site locations covers all of its site locations. Exceptional performer designations for individual site locations of such a lender or servicer are not permitted.

An exceptional performer designation is based only on the loans that the exceptional performer services directly. If a lender contracts with a servicer to fulfill a portion of its responsibilities under the FFELP, the lender may not obtain

a designation based on functions performed by its servicer. A designation applies to all loans serviced by the exceptional performer—with the exception of defaulted loans that have not been serviced by the exceptional performer for the last 270 days before default. [§682.415(a)(5) and (b)(5)(i); DCL FP 04-04]

#### 3.9.A Applying for the Designation

To apply for an exceptional performer designation, a lender or servicer must submit the following information to the Department and to each appropriate guarantor:

- A written request with the applicant’s name and address; the name of a contact person; the lender-identification number (LID), if applicable; and the name and address of each applicable guarantor. [§682.415(a)(2)(i)(A) through (D); DCL FP 04-04]
- A copy of an annual financial audit conducted in accordance with the Audit Guide developed by the Department. A lender may submit a copy of an annual audit required under 34 CFR 682.305(e) if the audit period ends no more than 90 days before the date the lender submits its request for designation. A servicer may submit a copy of the annual financial audit, as defined in 34 CFR 682.416(e), if the audit period ends no more than 90 days before the date the servicer submits its request for designation. [HEA 428I(e)(1); §682.415(a)(2)(i)(E)(1) through (2); DCL FP 04-04]
- A compliance audit of its loan portfolio, conducted by an independent organization, that yields a compliance performance rating of 97% or higher with respect to all due diligence requirements (such as skip tracing, conversion to repayment, timely claim filing). The period covered by this audit may end no more than 90 days before the date the lender or servicer submits its request for designation. A servicer may satisfy this requirement by submitting its annual compliance audit as outlined in 34 CFR 682.416(e), if the servicer includes in its report a measure of its compliance performance rating required under 34 CFR 682.415(a)(2)(iii)(A), and the audit is performed in accordance with an audit guide developed by the Department. [HEA 428I(e)(1); §682.415(a)(2)(iii); DCL FP 04-04]<sup>1</sup>

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

~~If the applicant is a servicer, it must include with the preceding information a statement from its owner or chief executive officer certifying that the servicer meets the definition of a servicer for the purposes of exceptional performer designations.~~

~~{§682.415(a)(2)(ii)}~~

### **3.9.B Department Determination of Request for Designation**

~~In determining whether to grant an exceptional performer designation, the Department considers the following:~~

~~{§682.415(b)}~~

- ~~• Information provided by the applicant.  
{HEA 428I(c)(5); §682.415(b)(1)(i)}~~
- ~~• Information provided by a guarantor.  
{HEA 428I(c)(2) and (3); §682.415(b)(1)(ii)}~~
- ~~• Any other information in the Department's possession—including information submitted by any other agency or office of the federal government.  
{HEA 428I(c)(3); §682.415(b)(1)(iii)}~~

~~The Department will notify the lender or servicer and each appropriate guarantor of the approval or denial. If the request is denied, the reasons for denial will be provided.~~

~~{HEA 428I(c)(3); §682.415(b)(2) and (4)}~~

~~To maintain its exceptional performer designation, a lender or servicer must undergo a quarterly compliance audit. A designation will be revoked if the audit indicates that a lender or servicer failed to maintain at least 97% compliance for two consecutive months or 90% for one month. If a lender or servicer is designated an exceptional performer for at least 15 months, it may petition the Department to have future quarterly compliance audits, as required under 34 CFR 682.415(b)(6)(i), conducted by the lender's or servicer's internal auditor.~~

~~{HEA 428I(b)(2) and (5); §682.415(b)(1)(i) and (ii)}<sup>1</sup>~~

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<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

## 4.4 Providing Information to Students

Federal regulations outline specific requirements for student counseling. Generally, this information is provided by a school's financial aid office.

A school must provide debt management counseling to each of its Stafford loan borrowers—individually or in groups—before the student's completion of study or at the time the student leaves the school. If the student withdraws without the school's knowledge, the school must attempt to provide information to the student in writing by sending it to the student's last known address.

[§682.604(g)(1)]

The following information must be included in debt counseling:

- Average anticipated monthly payment amounts.  
[§682.604(g)(2)(i)]
- A summary of available repayment options, including strategies for debt management designed to facilitate repayment.  
[§682.604(g)(2)(ii)]

For more information on the responsibilities of a financial aid office, the school may refer to [34 CFR 682.604](#) and [34 CFR 668.42](#), as well as the [2006-2007 Federal Student Aid Handbook, Volume 2, Chapter 6, pp. 2-98 to 2-106](#).

### 4.4.A Recommended Lender Lists

A school may provide to students and their parents a list of recommended FFELP lenders. If a school chooses to provide such a list, the list must:

- Not be used to deny or otherwise impede a borrower's choice of lender;
- Contain at least three unaffiliated lenders that will make loans to borrowers or students attending the school. The lender affiliation provision does not include entities that are involved in post-disbursement activities, which a school has no ability to monitor or control. For the purposes of this subsection, a lender is affiliated with another lender if any of the following criteria apply:
  - = The lenders are under the ownership or control of the same entity or individuals.

- = The lenders are wholly or partly owned subsidiaries of the same parent company.
- = The directors, trustees, or general partners (or individuals exercising similar functions) of one of the lenders constitute a majority of the persons holding similar positions with the other lender.
- Not include lenders that have offered, or have offered in response to a solicitation by the school, financial or other benefits to the school in exchange for inclusion on the list or any promise that a certain number of loan applications will be sent to the lender by the school or its students.

A school that provides a recommended lender list must do each of the following:

- Disclose, as part of the list, the method and criteria used by the school in selecting any lender that it recommends.
- Provide comparative information to prospective borrowers about interest rates and other benefits offered by the lenders.
- Include a prominent statement in any information related to its list of lenders, advising prospective borrowers that they are not required to use one of the school's recommended lenders.
- For first-time borrowers, not assign, through award packaging or other methods, a borrower's loan to a particular lender.
- Not cause unnecessary certification delays for borrowers who use a lender that has not been recommended by the school.
- Update any list of recommended lenders and any information accompanying such a list no less often than annually.  
[§682.212(h)]<sup>1</sup>

<sup>1</sup> Policy 1009 (Batch 147), approved February 21, 2008

A school that chooses not to recommend lenders, or that has not been able to identify more than one lender to make loans to its student and parent borrowers, may still provide information to assist the borrowers with their choice of lender. At the student’s or parent’s request, the school may provide the names of lenders that have made loans in the past to students and parents at the school, as long as the lender did not provide any prohibited inducement to the school to secure loan applications. When providing this information to the FFELP student or parent borrowers, the school must make clear that it is not endorsing any lender and that the FFELP borrower may choose any FFELP lender that will make loans for attendance at that school.

#### **4.4.A** **Consumer Information**

#### **4.4.B** **Consumer Information<sup>1</sup>**

A school participating in any **Title IV** program must provide annually to all **enrolled** students—and to prospective students, upon request—consumer information concerning the school and any financial assistance available to students attending the school, along with the school’s completion or graduation rate and its transfer-out rate. A school must also provide consumer information to employees and prospective employees and provide certain related reports (e.g., crime statistics reports).

The school’s written student consumer information and related reports must adhere to regulatory requirements, as outlined in **Subpart D (Institutional and Financial Assistance Information for Students) of the Student Assistance General Provisions**. Schools should refer to **34 CFR 668.41** through **668.48**. Schools also may wish to consult other Department of Education publications, such as the **2006-2007 Federal Student Aid Handbook, Volume 2, Chapter 6** for more information on student consumer information requirements.

Student consumer information must be made available to all currently enrolled students and prospective students. Regulations define a prospective student as an individual who has contacted an eligible school to request information about admission to the school. The information must be made available prior to the student’s enrolling or entering into any financial obligation with the school. An Internet Website may be used to provide information to prospective students; however, an *Intranet* Website may *not* be used. For enrolled students, the information may be made

available through an Internet Website or an Intranet Website that is reasonably accessible to the individuals to whom the information must be disclosed.

[§668.41]

When a school participating in any Title IV program offers a potential student athlete athletically related student aid, the school must provide the potential student athlete—and his or her parents, high school coach, and guidance counselor—information on completion or graduation rates and transfer-out rates for student athletes, following the requirements of **34 CFR 668.48**. The school also must submit the report produced to provide information to these students to the Department by July 1 of each year. Schools should refer to **34 CFR 668.41(b) and (f)** and **668.48** for information on disclosure requirements for student athletes. A school’s responsibilities may be satisfied if all of the following criteria are met:

- The school is a member of a national collegiate athletic association.  
[§668.41(f)(1)(ii)(A)]
- The association compiles data on behalf of its member schools, which the Department determines is comparable to those required in **34 CFR 668.48**.  
[§668.41(f)(1)(ii)(B)]
- The association distributes the data to all secondary schools in the United States.  
[§668.41(f)(1)(ii)(C)]

A school must prepare or revise information for each **award year** in which it participates in any Title IV program. In developing student consumer information, schools new to Title IV programs may find it helpful to review other schools’ catalogs. However, each school remains ultimately responsible for the accuracy and completeness of its student consumer information.

#### **Financial Assistance Information**

A school must provide financial assistance information regarding its programs, including a description of all federal, state, local, private, and institutional aid programs to enrolled and prospective students. For each listed financial aid program, the school’s student consumer information must include, but is not limited to, descriptions of:

[§668.42(a)]

- The procedures (including deadlines) and forms a student must use to apply for assistance.  
[§668.42(b)(1)]

<sup>1</sup> Policy 1009 (Batch 147), approved February 21, 2008

## 4.4.B Entrance Counseling

## 4.4.C Entrance Counseling<sup>1</sup>

A school must ensure that [entrance counseling](#) is conducted with each student borrower who is obtaining his or her first Stafford loan for attendance at that school—unless the student previously received a Stafford, SLS, or Federal Direct Stafford loan for attendance at another school. Entrance counseling must be provided before the first [disbursement](#) of a loan is released, and may be conducted by any of the following methods:

- In-person presentation.
- Audiovisual presentation.
- Interactive electronic means.

If entrance counseling is conducted through interactive electronic means, the school must take reasonable steps to ensure that each student borrower receives the counseling materials and participates in and completes the counseling. The school must ensure that an individual with expertise in [Title IV](#) programs is reasonably available shortly after the counseling has been conducted to answer questions regarding these programs. As an alternative, the school may provide the required counseling through written materials for students enrolled in a correspondence program or a study-abroad program that the home institution approves for credit.

[§682.604(f)(1)]

When counseling is conducted by another party or by interactive electronic means, the school remains responsible for ensuring that each student borrower receives the counseling materials and participates in and completes entrance counseling.

[§682.604(f)(3)]

A school must ensure that information on the following subjects is provided to the student borrower during entrance counseling:

- The use of the Federal Stafford Loan [Master Promissory Note](#) (Stafford MPN). This may include the multi-year feature and borrower loan control points (e.g., [Notification](#) or [Confirmation](#), cancellation or reduction of the loan amount, and revocation of the

MPN). See [subsection 2.2.A](#) for more information on using an MPN.

[§682.604(f)(2)(i)]

- The seriousness and importance of the repayment obligation that the student is assuming.  
[§682.604(f)(2)(ii)]
- The likely consequences of [default](#), including adverse credit reports, federal offset, and litigation.  
[§682.604(f)(2)(iii)]
- The obligation to repay the full amount of the Stafford loan, even if the student borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student purchased from the school (the school or the school designee must provide this information to all of the school's student borrowers except those who receive a loan made or originated by the school). The student borrower must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.  
[§682.604(f)(2)(iv)]

To improve a student's understanding of his or her loan repayment obligation, the Department recommends that the school provide the following additional information as part of entrance counseling provided to a Stafford borrower:

- A thorough explanation of all sources of financial aid available to the student or to his or her parent(s).
- A description of the terms and conditions of each available type of aid, including loan limits, loan fees, and [interest](#) rates.
- A discussion of the school's policy on the frequency of [annual loan limits](#).
- A strong recommendation to the student to read carefully and retain all documentation related to each of his or her loans.
- A reminder to the student to keep the lender informed of any changes to his or her name, address, telephone number, [Social Security number](#), or enrollment status.
- A summary of the student's rights and responsibilities.

<sup>1</sup> Policy 1009 (Batch 147), approved February 21, 2008

- An overview of repayment, [deferment](#), [forbearance](#), cancellation options and conditions, loan consolidation, and refinancing options that are available to the student.
- Information on the consequences of borrowing several education loans and of [delinquency](#) and default.
- An explanation of loan sales and the servicing of loans.
- An explanation of how the school will determine whether the student is making [satisfactory academic progress \(SAP\)](#).
- A detailed disclosure of the school's [refund](#) policy.
- General information on budgeting living expenses and other aspects of personal financial management.

A school must maintain a record to substantiate the school's compliance with the entrance counseling requirement for each borrower. For detailed information on entrance counseling, a school may consult [34 CFR 682.604\(f\)](#) and the [2006-2007 Federal Student Aid Handbook, Volume 2, Chapter 6, pp. 2-99 to 2-102](#).  
[§682.604(f); DCL GEN-98-25/98-G-315/98-L-211; DCL GEN-99-9]

## 4.4.C Exit Counseling

### 4.4.D Exit Counseling<sup>1</sup>

A school must ensure that [exit counseling](#) is conducted shortly before any Stafford loan borrower ceases enrollment on at least a half-time basis. The exit counseling may be conducted in person, by audiovisual presentation, or by interactive electronic means. The school must ensure that an individual with expertise in [Title IV](#) programs is reasonably available shortly after the exit counseling has been conducted to answer the student borrower's questions.

If a student borrower withdraws without the school's prior knowledge, or fails to complete the required exit counseling, the school must ensure that exit counseling is provided through interactive electronic means or by mailing written materials to the student borrower at his or her last known address within 30 days after learning that the student borrower withdrew from school or failed to complete the exit counseling as required. For a student borrower enrolled in a study-abroad program that the home institution

approves for credit, or in a correspondence program, the school may, as an alternative to in-person, audiovisual, or interactive electronic means, provide written exit counseling materials by mail within 30 days after the student completes the program.

[§682.604(g)(1)]

When counseling is conducted by another party or by interactive electronic means, the school remains responsible for ensuring that each student borrower receives the counseling materials and participates in and completes exit counseling.

The school must ensure that the student borrower provides the school with his or her current name, address, [Social Security number](#), references, and driver's license number and state of issuance (if any). The school also must ensure that the student borrower provides his or her expected permanent address, the name and address of his or her expected employer (if known), and the address of his or her next of kin. The school must ensure that this information is provided to each [guarantor](#) listed in the student's records within 60 days after the student borrower provides the information.

[§682.604(g)(2)(vi)]

The school must ensure the information on the following subjects is provided to the student borrower during exit counseling:

- The average anticipated monthly repayment amount based on the student's indebtedness or based on the average indebtedness of Stafford loan borrowers at the same school or in the same [program of study](#) at the same school.  
[§682.604(g)(2)(i)]
- Available repayment options including [standard](#), [graduated](#), extended, and [income-sensitive repayment plans](#) and loan consolidation.  
[§682.604(g)(2)(ii)]
- Debt-management strategies that would facilitate repayment.  
[§682.604(g)(2)(iii)]
- The conditions under which the student borrower may defer or forbear repayment or obtain a full or partial [discharge](#) of the loan.  
[§682.604(g)(2)(v)]
- The seriousness and importance of the repayment obligation that the student has assumed.  
[§682.604(g)(2)(iv)]

<sup>1</sup> Policy 1009 (Batch 147), approved February 21, 2008



A student is not considered to have **financial need** if he or she is a member of a religious order, group, community, society, agency, or other organization that:

- Has the primary objective of promoting ideals and beliefs regarding a supreme being.
- Requires its members to forgo monetary or other support substantially beyond the support it provides.
- Directs the members to pursue the course of study or provides subsistence support to its members.  
[§682.301(c)(2)]

## 6.14.B Unsubsidized Stafford Loans

Unsubsidized Stafford loans are authorized for **borrowers** who do not qualify for federal **interest** subsidy, borrowers who qualify only partially for subsidy, and borrowers who qualify for subsidy but have already borrowed the maximum subsidized amount and are eligible for additional Stafford loan **funds**. Eligibility for an unsubsidized Stafford loan is calculated by deducting the sum of a student's subsidized Stafford loan eligibility and all other expected sources of financial assistance from the **cost of attendance** (COA). The student is responsible for paying interest that accrues on his or her unsubsidized Stafford loan during all periods.

[HEA 428(H)(b)]

## 6.14.C Nonsubsidized Stafford Loans

Before the 1992 **Reauthorization** of the Higher Education Act, a **lender** was permitted to make a nonsubsidized Stafford loan to a borrower who did not qualify for **federal interest benefits** and whose loan amount would not exceed the COA minus other financial assistance. Lenders did not pay **origination fees** on these **nonsubsidized loans**, and the loans were not eligible for **interest benefits**. Nonsubsidized Stafford loans remain eligible for all **deferments** and repayment options applicable to other Stafford loans.

## 6.15 School Certification of the Loan

In certifying a Stafford or PLUS loan, a school is required to make several determinations regarding the eligibility of the student—or the student and the **parent** in the case of a **parent PLUS loan**—and the maximum amount that may be

borrowed (see **section 6.11**). The **school** must ensure it does not certify an amount that would result in the borrower receiving more than the borrower's actual eligibility.  
[§682.603(d)]

A school must certify the borrower's loan eligibility by the end of the loan period or the date on which the student ceases to be enrolled at least half time, whichever is earlier. If the school does not certify the loan by the earlier of these two dates, the loan cannot be disbursed. See subsection 7.7.G for complete information regarding late disbursement.

[§668.164(g)(2)(ii)(A); §682.207(f)]

A school may not refuse to certify or delay the certification of a Stafford or PLUS loan based on the borrower's selection of a particular lender or guarantor. Also, a school may not assign a first-time borrower's loan to a particular lender through the award packaging process or other methods. See Subsection 6.15.E for information regarding when the school is permitted to refuse to certify a FFELP loan or to reduce the loan amount.

[§682.603(f)(1) and (2)]<sup>1</sup>

A school may not assess a Stafford or PLUS loan borrower, or the dependent student in the case of a parent PLUS loan, a fee for the completion or **certification** of any **FFELP** form or for providing any information necessary to receive a FFELP loan or any benefits associated with a FFELP loan. Examples include loan certifications, promissory notes, enrollment verification requests, or deferment forms.

[§682.603(h)]

### Schools on the Reimbursement Payment Method or the Cash Monitoring Payment Method

A school that **the Department** has placed on the reimbursement payment method or the cash monitoring payment method for the Federal **Pell Grant** Program, the **FDLP**, or the **campus-based programs** must comply with any additional requirements established by the Department regarding the certification and delivery of Stafford or PLUS funds to its borrowers.

[§668.167(d)]

A **school** participating solely in the **FFELP** may be required to seek the **Department's** approval to certify loan eligibility and deliver Stafford or PLUS loan **funds** if the Department determines a need to monitor the school's participation.

[§668.167(d)(1)(i) and (ii)]

<sup>1</sup> Policy 1009 (Batch 147), approved February 21, 2008

the school must include that aid in the EFA when determining the parent's PLUS loan eligibility. [2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 6, p. 3-78]

### Graduate and Professional Student Borrowers

A school may certify a **Grad PLUS loan** for a graduate or professional student only if the student meets the eligibility criteria for both a student and a PLUS loan borrower. These eligibility criteria are outlined in **subsections 5.1.A, 5.1.B, and 5.1.C, and Section 5.11.**<sup>1</sup>

A school determines a student borrower's maximum eligibility for a Grad PLUS loan by subtracting from the cost of attendance (COA) the estimated financial assistance (EFA) that the student is expected to receive for the loan period.

Before applying for a Grad PLUS loan, a student is required to submit a completed Free Application for Federal Student Aid (FAFSA). and Before certifying a Grad PLUS loan, the school is required to must determine the student's maximum eligibility for subsidized and unsubsidized Stafford loan funds in the program (FFELP or Direct) in which the school is participating for Stafford loan purposes.

If the student has not requested the maximum Stafford loan amount for which he or she is eligible, the school must notify the student of his or her maximum Stafford loan eligibility, and provide the student the following information on each loan type (Stafford and PLUS):

- The maximum interest rate.
- The periods during which interest that accrues must be paid by the borrower.
- The point at which the loan enters repayment.

The school must then provide the student with an opportunity to request the maximum Stafford loan funds for which he or she is eligible. However, the student may decline the Stafford loan funds and the school may not require the student to accept Stafford loan funds as a condition of applying for a Grad PLUS loan.

[§682.201(b)(3); §682.603(d); DCL GEN-06-02/FP-06-01; DCL FP-06-05]<sup>2</sup>

## 6.15.D Additional Unsubsidized Stafford Loan Certification for a Dependent Student<sup>3</sup>

If a **dependent student's parent** is unable to obtain a PLUS loan at a school that participates in the Federal PLUS Loan Program due to exceptional circumstances documented by the financial aid administrator (FAA)—~~such as adverse credit history, incarceration, parental whereabouts unknown, or family income limited to public assistance or disability benefits~~<sup>4</sup>—and the student's family is otherwise unable to provide the **expected family contribution (EFC)**, ~~the school may certify dependent student is eligible for additional unsubsidized Stafford loan funds for the student not to exceed the student's maximum additional unsubsidized Stafford annual~~<sup>5</sup> **loan limit, assuming the student meets the other criteria in Section 5.1.**<sup>6</sup> See **Figure 6-4.** ~~The school is not permitted to deny the additional funds to an otherwise eligible student, unless the school's refusal to certify is based on a documented reason. See Subsection 6.15.E for information on the requirements for exercising professional judgment to reduce or deny loan certification.~~ [§682.603(c)]<sup>7, 8</sup>

~~Other~~ **Exceptional circumstances**<sup>9</sup> ~~if properly documented—that an FAA may entitle use to certify additional unsubsidized Stafford loan funds for an otherwise eligible dependent student to additional unsubsidized Stafford loan funds~~ may include, but are not limited to:<sup>10, 11</sup>

- The dependent student's parent has an adverse credit history.  
[§682.201(a)(3)]
- The dependent student's parent is incarcerated.  
[§682.201(a)(3)]
- The whereabouts of the dependent student's parent are unknown.  
[§682.201(a)(3)]

3. Policy 970 (Batch 142), approved September 20, 2007

4. Policy 987 (Batch 145), approved December 20, 2007

5. Policy 970 (Batch 142), approved September 20, 2007

6. Policy 987 (Batch 145), approved December 20, 2007

7. Policy 970 (Batch 142), approved September 20, 2007

8. Policy 987 (Batch 145), approved December 20, 2007

9. Policy 987 (Batch 145), approved December 20, 2007

10. Policy 970 (Batch 142), approved September 20, 2007

11. Policy 987 (Batch 145), approved December 20, 2007

1. Policy 968 (Batch 142), approved September 20, 2007

2. Policy 1011 (Batch 147), approved February 21, 2008

- For a student who rescinds his or her official notification of withdrawal and subsequently does not complete the [payment period](#) or [period of enrollment](#), the date of determination is the date the school becomes aware that the student did not or will not complete the payment period or period of enrollment. [[§668.22\(1\)\(3\)\(iv\)](#)]
- For a student who takes an unapproved leave of absence, the date of determination is the date that the student begins the leave of absence. [[§668.22\(1\)\(3\)\(v\)](#)]

#### *Time Frames Applicable to the Date of Determination*

For a student who does not provide official notification of his or her withdrawal, the school must determine the student's withdrawal date within 30 days *from the earliest* of:

- The end of the payment period or period of enrollment for which the student was charged.
- The end of the academic year during which the student withdrew.
- The end of the educational program from which the student withdrew.

A school must return [Title IV](#) program funds no later than 45 days after the date of determination. If the student is eligible for a [post-withdrawal disbursement](#), it must be offered to the student or, in the case of a [parent PLUS loan](#), the parent, within 30 days of the date of determination.

#### *Treatment of a Title IV Credit Balance When a Student Withdraws*

If a student withdraws and has a Title IV credit balance on his or her account, the school must not deliver any portion of the credit balance to the student or return any portion of the credit balance to the Title IV student aid programs before it completes a return of Title IV funds calculation (see [subsection 8.8.C](#)).

#### *For Schools Required to Record Attendance*

A school that is required to record attendance must have procedures in place to determine when a student withdraws. If a student notifies the school of his or her intent to withdraw prior to the date that the school would normally determine that the student withdrew, the withdrawal date is the date that the student notified the school of his or her intent to withdraw. In addition, if the school has a policy

that indicates when absences will be treated as withdrawals, the date of determination is the date specified in school policy as long as that date is not later than 14 days after the student's withdrawal date.

Except in unusual cases, if a student is absent without explanation, a school must determine whether the student withdrew no later than 14 days after the student's last date of academic attendance as determined from the school's attendance records. The school does not have to make a withdrawal determination if, during that 14-day period, the student verifies that he or she plans to return to school. [[DCL GEN-04-12](#); [2006-2007 Federal Student Aid Handbook](#), Volume 5, Chapter 2, p. 5-32]

## 9.5 Return of Title IV Funds

For each Title IV aid recipient who withdraws, the school must calculate the amount of Title IV assistance the student has earned. This amount is based upon the length of time the student was enrolled. The school must return any portion of unearned Title IV funds for which the school is responsible. The school must also advise the student of the amount of unearned Title IV grant aid that he or she must return, if applicable. The student (or parent, in the case of a [parent PLUS loan](#)) must repay any unearned funds that the school did not return according to the normal terms of the loan. To assist schools, the Department has provided Return of Title IV Funds worksheets.

Upon request, the school must provide to enrolled and prospective students: ~~a copy of any refund policy with which the school is required to comply and addresses the return of unearned tuition and fees or other refundable costs paid by the student. The written policy must include the requirements and procedures a student should follow to officially withdraw from the school. The school must also provide a summary of the federal requirements for the return of Title IV funds, as detailed in [34 CFR 668.22](#).~~

- A copy of any refund policy with which the school is required to comply that addresses the return of unearned tuition and fees or other refundable costs paid by the student.
- The requirements and procedures a student should follow to officially withdraw from the school.
- A summary of the federal requirements for the return of Title IV funds, as detailed in [§668.22](#).

[[§668.43\(a\)\(2\) through \(4\)](#)]<sup>1</sup>

<sup>1</sup> Policy 1013 (Batch 147), approved February 21, 2008

The lender must require the borrower to repay the loan under a standard repayment schedule if the borrower meets either of the following criteria:

- The borrower does not select an [income-sensitive](#), ~~or a~~ [graduated](#), or [extended](#) (if applicable) repayment schedule within 45 days after being notified by the lender to choose a repayment schedule.<sup>1</sup>
- The borrower chooses an income-sensitive repayment schedule but does not provide the [documentation](#) requested by the lender within the time period specified by the lender.  
[§682.209(a)(6)(v) and (vi)]

## 10.8.B Graduated Repayment Schedule

When a lender establishes a graduated repayment schedule, the amount of the borrower's installment payment is scheduled to change (usually increasing) over the repayment period. When establishing these payment amounts, a lender must ensure that no single installment is more than three times greater than any other installment.

A lender is not required to have a separate payment agreement with the borrower if the graduated repayment schedule provides for the borrower to pay less than the minimum annual payment amount.  
[§682.209(a)(6)(vii)(B)]

## 10.8.C Income-Sensitive Repayment Schedule

If a [borrower](#) selects an [income-sensitive repayment schedule](#), the borrower must provide the [lender](#) with information on the expected total monthly gross income the borrower receives from all sources. Except for a spousal Consolidation loan, expected total monthly gross income from all sources does not include income earned or received by a borrower's spouse.

To ensure the income information is current, the borrower cannot provide the income information any earlier than 90 days before the first payment due date. If the borrower's loan entered repayment without the lender's knowledge, the lender may obtain the income information earlier than 90 days before the first payment due date.

The lender will determine whether the borrower qualifies for an income-sensitive repayment schedule based on the borrower's expected total monthly gross income. If the borrower reports income the lender considers insufficient to establish a monthly payment that will repay the loan within the maximum applicable [repayment period](#), the lender must request documentation showing the amount of the most recent total monthly gross income from employment and other sources received by the borrower. This can include, if applicable, pay statements from employers and documentation of any income received by the borrower from other parties. When establishing these payment amounts, a lender must ensure that no single installment is more than three times greater than any other installment.  
[§682.209(a)(6)(ii)]

The [lender](#) must collect and review the [borrower's](#) income [documentation](#) annually and adjust the borrower's payment amount accordingly. To ensure income information is current, the borrower cannot provide the information any earlier than 90 days before the payment is scheduled to be adjusted.

The lender must inform the borrower that the loan must be repaid within the maximum repayment period allowed. However, the lender must grant a [forbearance](#) to the borrower—or [endorser](#), if applicable—for a period of up to 5 years in cases where the effect of decreased installment amounts paid under an income-sensitive repayment schedule would result in a loan not being repaid within the maximum repayment period (see [section 11.22](#)).  
[§682.209(a)(6)(viii)]

## 10.8.D Extended Repayment Schedule

The extended repayment schedule is limited to “new borrowers” on or after October 7, 1998, with an outstanding balance of principal and interest in FFELP loans totaling more than \$30,000. The lender may schedule the borrower for standard or graduated installments over a period not to exceed 25 years.  
[HEA 428(b)(9)(A)(iv); §682.209(a)(6)(ix)]

A “new borrower” on or after October 7, 1998, may qualify for an extended repayment schedule if the borrower has multiple lenders with an aggregate FFELP loan amount totaling more than \$30,000. A lender must retain a record of the basis for determining a borrower's eligibility for an extended repayment schedule, if the total loan amount it holds is not more than \$30,000.

<sup>1</sup> Policy 1012 (Batch 147), approved February 21, 2008

### Unsubsidized Stafford Loans First Disbursed October 7, 1998, to June 30, 2000, Inclusive

The lender may capitalize unpaid interest only as follows:

- When the loan enters repayment.
- When the grace period ends.
- When a deferment ends.
- When a forbearance ends.
- When the loan defaults.  
[HEA 428H(e)(2)]

### Subsidized Stafford Loans First Disbursed Prior to July 1, 2000, Unsubsidized Stafford Loans First Disbursed Prior to October 7, 1998, and All PLUS and Consolidation Loans

A lender may capitalize the interest that accrues during in-school, grace, deferment (except in-school deferment for Consolidation loans), and forbearance periods no more frequently than quarterly, and again when repayment is scheduled to begin or resume. A lender may capitalize interest that accrues during the following periods only on the date repayment of principal is scheduled to begin:

- During the period from the date the first **disbursement** was made to the beginning date of the in-school period.
- During the period from the date the first installment payment was due to the date it is made.
- During a period when the borrower's loan was in repayment, but the borrower made no payments because:
  - The lender received late notification that the borrower withdrew or ceased to be **enrolled** on at least a half-time basis, as applicable, from the **school** before the lender's projected deferment end date, **out-of-school date**, or date on which the loan is fully disbursed.
  - The lender learned after the fact that the borrower or a **dependent student** (based on whose status a PLUS loan borrower obtained the deferment) did not maintain in-school deferment eligibility.  
[§682.202(b)]

### Consolidation Loans with In-school Deferments

Unsubsidized interest that accrues on a Consolidation loan during an in-school deferment may only be capitalized at the end of the deferment period.<sup>1</sup>

Guarantors strongly encourage a lender to capitalize a borrower's outstanding accrued interest in all cases in which capitalization is permitted in order to prevent **delinquency**.

## 10.10.C Capitalization of Delinquent Interest Payments

If a **borrower** with an unsubsidized or a nonsubsidized **FFELP** loan fails to fulfill an **agreement** to make **interest-only** payments during the **in-school**, **grace**, **deferment**, or **forbearance** period, the **lender**:

- Must notify the borrower that he or she has 30 days to remit the delinquent interest payment unless the notification was provided to the borrower on the **promissory note**, **repayment schedule**, deferment or forbearance form, or other written notification provided to the borrower in the course of servicing the loan.
- May **capitalize** the accrued interest for the in-school, grace, deferment, or forbearance period, if the borrower does not pay the interest within the 30-day period. The lender may continue to capitalize interest no more frequently than quarterly during the balance of the in-school, grace, deferment, or forbearance period.

In most cases, a lender may not file a **default claim** solely due to delinquent interest. See **subsection 13.6.A** for more information on allowable interest-only default claims.

If the lender cannot notify the borrower of the interest payment **delinquency** because of an unresolved bad address, the lender may capitalize the delinquent interest without notification if that payment remains outstanding and unpaid for a period of 30 days.

<sup>1</sup> Policy 1006 (Batch 147), approved February 21, 2008

A borrower or a borrower's representative must request the deferment and provide the lender with documentation establishing that he or she is serving a period of full-time active duty status in the U.S. Armed Forces.

Documentation may include:

- A written statement from the borrower's commanding officer or personnel officer certifying the date on which the borrower's service began and the date on which it is expected to end.
- A copy of the borrower's official military orders and a copy of the borrower's active duty military identification card.

If a lender grants an armed forces deferment based on a request from the borrower's representative, the lender must notify the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan. The lender may also notify the borrower's representative of the outcome of the deferment request.

[§682.210(i)(5)]<sup>1</sup>

~~Several statutory and regulatory provisions were introduced in 1991 to provide additional benefits to borrowers who served on active duty in connection with Operations Desert Shield/Desert Storm. For additional information on these provisions, refer to *Dear Colleague Letters* GEN 91-11 and GEN 91-19 and the *Federal Register* dated September 16, 1991.~~<sup>2</sup>

### 11.3.B Deferment Documentation—Armed Forces

If a borrower requests an Armed Forces deferment, the lender must forward to the borrower the following common deferment form:

#### PUB

Public Service Deferment Request

### 11.3.C Length of Deferment—Armed Forces

The deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends no later than 3 years after the date on which it began, or the date on which the borrower's qualifying service is certified to end or actually ends, whichever is earlier. A borrower may be granted a

maximum of 3 years of deferment for any combination of service in the U.S. Armed Forces, U.S. Commissioned Corps of Public Health, and National Oceanic and Atmospheric Administration Corps (NOAA).

[§682.210(i)]

~~For active duty status in connection with military mobilizations, the lender is permitted to accept, during specific emergency periods, the borrower's request for the deferment and the supporting documentation from a close family member or an individual in a position to know the borrower's military status (such as the borrower's commanding officer). In the case of a deferment on behalf of a borrower serving in Operations Desert Shield/Desert Storm, the lender was permitted to grant the deferment retroactive to the date the borrower was mobilized—even if that resulted in backdating the deferment more than 6 months. Furthermore, if a borrower had used the entire 36-month Armed Forces deferment eligibility before being mobilized, the borrower or a close family member had the option of requesting an emergency administrative forbearance.~~

[DCL GEN 01-13; DCL GEN 03-06]<sup>3</sup>

## 11.4 Economic Hardship Deferment

An economic hardship deferment is available to a borrower who earns less than minimum wage or exceeds a federally defined debt-to-income ratio.

### 11.4.A Eligibility Criteria—Economic Hardship

This deferment is available only if the borrower had no outstanding balance on a FFELP loan as of the date he or she obtained a loan on or after July 1, 1993.

To qualify for this deferment, a borrower must request it and provide the lender with documentation that he or she meets at least one of the following eligibility criteria:

1. The borrower has been granted an economic hardship deferment under either the FDLP or Federal Perkins Loan Program for the period of time for which the borrower has requested an economic hardship deferment for his or her FFELP loan.
2. The borrower is receiving payment or benefit under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental

<sup>1</sup> Policy 1008 (Batch 147), approved February 21, 2008

<sup>2</sup> Policy 974 (Batch 142), approved September 20, 2007

<sup>3</sup> Policy 974 (Batch 142), approved September 20, 2007

## 11.8.A Eligibility Criteria—Military

The military deferment is loan-specific. This deferment is available only for a borrower's Stafford and PLUS loans first disbursed on or after July 1, 2001, and for Consolidation loan(s) when all Title IV loans included in the Consolidation loan were first disbursed on or after July 1, 2001. The borrower must meet the qualifications after July 1, 2001.

This deferment is available only for periods during which a borrower is serving in one of the following capacities:

- On active duty during a war or other military operation, or a national emergency.
- On qualifying National Guard duty during a war or other military operation, or a national emergency. [HEA 428(b)(1)(M); DCL GEN-06-02]

### Definitions Applicable to Military Deferment

In the context of the military deferment, the following definitions apply:

- *Active duty* means serving in full-time duty in the active military service of the U.S., not including training or attendance at a service school.
- *Military operation* means a contingency operation in which a member of the Armed Forces is, or may become, involved in military actions, operations, or hostilities against an enemy of the U.S. or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. 688, 12301(a), 12302, 12304, 12305, or 12406, 10 U.S.C. chapter 15, or any other provision of law during a war or during a national emergency declared by the president or Congress.
- *National emergency* means a national emergency by reason of certain terrorist attacks declared by the president on September 14, 2001, or subsequent national emergencies declared by the president by reason of terrorist attacks.
- *Qualifying National Guard duty* means training or other duty, other than inactive, performed by a member of the U.S. Army National Guard or the Air National Guard on full-time National Guard duty as called to service authorized by the president or the secretary of

defense. The training or other duty must be performed for more than 30 consecutive days in connection with a war or other military operation, or a national emergency as declared by the president and supported by federal funds.

- *Serving in active duty* means service by an individual who is a Reserve of an Armed Force ordered to active duty under section 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306, or any retired member of an Armed Force ordered to active duty under 10 U.S.C. 688, for service in connection with a war or other military operation or national emergency, regardless of the location at which the active duty service is performed. This also includes any other member of an Armed Force on active duty in connection with such emergency or subsequent actions of conditions who has been assigned to a duty station at a location other than where the member is normally assigned.

Not all active duty military personnel are eligible for the military deferment. A borrower who does not qualify for this deferment may be eligible for the Armed Forces deferment (see subsection 11.3.A for the Armed Forces deferment eligibility criteria).

A borrower is not eligible for a refund of any loan payments made prior to the time the deferment is granted. [HEA 428(b)(1)(M); DCL GEN-06-02]

## 11.8.B Deferment Documentation—Military

*Note: As of the printing of the manual, the Department has not approved a common Military Deferment Request form.*

A borrower or a borrower's representative must request the deferment and provide the lender with documentation of his or her duty status. The documentation must include a copy of the borrower's military orders, or a written statement from the borrower's commanding or personnel officer that the borrower is serving on active duty during a war or other military operation, or a national emergency, or that the borrower is performing qualifying National Guard duty during a war or other military operation, or a national emergency, as those terms are defined in Subsection 11.8.A.

[HEA §428(b)(1)(M); DCL GEN-06-02]<sup>1</sup>

<sup>1</sup> Policy 1008 (Batch 147), approved February 21, 2008

If a lender grants a military deferment based on a request from the borrower's representative, the lender must notify the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan. The lender may also notify the borrower's representative of the outcome of the deferment request.

[§682.210(t)(7)]<sup>1</sup>

## 11.8.C Length of Deferment—Military

The deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends on the earlier of the date that is no later than 3 years after the date on which it began, or the date on which the borrower's qualifying service is certified to end or actually ends.

[HEA 428(b)(1)(M); DCL GEN-06-02]

## 11.9 National Oceanic and Atmospheric Administration Corps Deferment

A National Oceanic and Atmospheric Administration Corps deferment is available to a borrower who is engaged in active duty service in the National Oceanic and Atmospheric Administration Corps (NOAA).

### 11.9.A Eligibility Criteria—NOAA

This deferment is available only if the borrower has an outstanding balance on a FFELP loan that was made before July 1, 1993, or the borrower had an outstanding balance on a FFELP loan made before July 1, 1993, when he or she obtained a loan disbursed on or after July 1, 1993.

To qualify for this deferment, a borrower must request it and provide the lender with a statement from an authorized official of the NOAA Corps certifying:

- That the borrower is on active duty status in the NOAA Corps.
- The date on which the borrower's service began.
- The date on which the borrower's service is expected to end.

## 11.9.B Deferment Documentation—NOAA

If a borrower requests a NOAA deferment, the lender should forward to the borrower the following common deferment form:

### PUB

Public Service Deferment Request

## 11.9.C Length of Deferment—NOAA

The deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends no later than 3 years after the date on which it began, or the date on which the borrower's qualifying service is certified to end or actually ends, whichever is earlier. A borrower may be granted a maximum of 3 years of deferment for any combination of service in the U.S. Armed Forces, U.S. Commissioned Corps of Public Health, and NOAA.

[§682.210(p)]

## 11.10 Parental Leave Deferment

A parental leave deferment is available to a borrower who is pregnant or caring for his or her newborn or newly adopted child.

### 11.10.A Eligibility Criteria—Parental Leave

This deferment is available only if the borrower has an outstanding balance on a FFELP loan that was made before July 1, 1993, or the borrower had an outstanding balance on a FFELP loan made before July 1, 1993, when he or she obtained a loan disbursed on or after July 1, 1993.

To qualify for this deferment, a borrower must request it and provide to the lender a statement certifying that:

- The borrower is pregnant or caring for his or her newborn child, or caring for a child immediately following his or her adoption of that child.
- The borrower will not be attending school during this period.

<sup>1</sup> Policy 1008 (Batch 147), approved February 21, 2008



Chapter 13 describes the policies governing filing a claim with a guarantor and requesting loan discharge or loan forgiveness. This chapter discusses the policies related to and the documentation required for default claims, as well as for the various loan discharge types—closed school, death of a borrower or a student for whom a PLUS loan was obtained, false certification, total and permanent disability, and unpaid refund. Bankruptcy claim filing procedures are also covered, as well as a description of the procedures for the Teacher Loan Forgiveness Program and the Loan Demonstration Program for Child Care Providers.

## 13.1 Claim Filing

Lenders must adhere to the following requirements for all claim types. Compliance with these requirements is crucial; failure to comply may result in the cancellation of the loan's guarantee.

[§682.401(b)(19)]

### 13.1.A Claim Filing Requirements

A lender must file each claim according to the policies and deadlines pertaining specifically to the type of claim being filed (for more information on these policies and deadlines, see each specific claim type in [sections 13.6](#) and [13.8](#)). The lender's claim files must be accurate and must include all documentation specified in [subsection 13.1.D](#).

If a lender submits a claim with any required [documentation](#) that is missing, incomplete, or inaccurate, the guarantor may attempt to obtain the necessary information from its own system or request the information from the lender. The lender must provide the requested information and, if applicable, refile the claim by the refile deadline (refer to [subsection 13.2.A](#)).

- ▲ Some guarantors offer services that enable lenders to file claims electronically. Lenders may contact individual guarantors for more information on such services. See [section 1.5](#) for contact information.

## Claim Form

The Claim Form is designed to be used by a lender to request [claim](#) reimbursement. All loans included on the Claim Form must have the same loan type (i.e., Stafford, PLUS, SLS, or Consolidation), due date, interest-paid-through date, lender ID, and, if available, claim review status.

The Claim Form and instructions include three separate claim-filing statuses: [exceptional performer](#) status, standard review status, and program review status. The claim-filing status the guarantor or Department assigns determines both the method by which the lender's claims will be reviewed and paid and the documentation and information the lender will be required to provide in the claim file.

The claim review statuses are defined as follows:

- The *Exceptional Performer Status* is defined in regulation and assigned by the Department. Lenders designated as exceptional performers may file claims using documentation requirements outlined in [Subsection 13.1.D](#). Such claims are not subject to additional review for due diligence, conversion to repayment, or timely filing requirements—except as determined to be necessary by the guarantor or the Department as part of the general program oversight responsibility. Bankruptcy claims filed by a lender designated as an exceptional performer are subject to review for the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s). (See [Subsection 13.8.A](#) for more information regarding bankruptcy servicing requirements.) This designation was eliminated on October 1, 2007, per statutory changes from the [College Cost Reduction and Access Act \(P.L. 110-84\)](#). See [History Appendix](#) for more information. [\[§682.415\(b\)\(7\)\(i\)\]<sup>1</sup>](#)
- The *Standard Review Status* is applicable to a lender for whom the guarantor has identified no significant servicing deficiencies. Lenders under this status may file claims using documentation requirements as outlined in [subsection 13.1.D](#).

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

### 3. *Assignment of a Loan*

The claim file must contain the **holder's** original assignment of a loan to the guarantor. A lender using the Claim Form, which contains the assignment language, need not provide additional information or certifications when filing a claim in order to assign the loan. A lender using an electronic claim filing process should work directly with the guarantor to develop an accurate, timely assignment process that corresponds with the claim filed.

If the ownership of the loan was previously assigned to the current holder from another holder, the holder must document all prior assignments, as applicable, and the lender's assignment of the note to the guarantor. Each prior assignment may be stamped, typed, or written directly on the back of the note, or may be in the form of a letterhead assignment or otherwise through an agreement with the guarantor.

### 4. *Out-of-School Date Information*

Documentation supporting the lender's **out-of-school date** must be included as part of the claim documentation *only* if the lender is aware that its out-of-school date is different from the out-of-school date on the guarantor's file.

### 5. *Cure Documentation*

If the loan's guarantee is lost and subsequently reinstated, the lender must include in any claim filed subsequent to the reinstatement the **curing instrument** or a legible copy of the curing instrument. Examples of a curing instrument include a new repayment agreement signed by the borrower or a copy of a payment. In the case of an **intensive collection activities (ICA)/location cure**, the claim file must include acceptable evidence that the borrower has been located as detailed in [section 14.6](#). For additional information regarding acceptable documentation to show that an ICA/location cure has been completed, see [section 14.6](#).

Guarantors may require lenders to provide additional information or documentation, for example if the borrower disputes the loan amount or a school disputes its cohort default rate.

### *Closed School Claims, False Certification Claims, and Unpaid Refund Discharges*

Documentation requirements for closed school and false **certification** claims are outlined in [subsections 13.8.B and 13.8.D](#), respectively. Documentation requirements for unpaid refund discharges are outlined in [subsection 13.8.G](#).

### *Ineligible Borrower Claims*

For an **ineligible borrower** claim, the lender is required to submit only items 1 through 3 of the preceding list. The lender must also provide the month, day, and year the final demand letter was mailed and reasonable documentation supporting the borrower's ineligibility for the loan, such as an affidavit or letter from the school or a statement from the lender clearly stating the facts and allegations. [[§682.412](#)]

### **Additional Documentation Requirements**

#### *Bankruptcy Claims*

For a **bankruptcy claim**, the lender must submit—in addition to the preceding items 1 through 5—notification of the bankruptcy filing, such as the Notice of the First Meeting of Creditors (the Notice) or other proof of filing directly received from the borrower's attorney, the bankruptcy court, or from another source; a copy of the Proof of Claim filed by the lender, if required; ~~an original assignment of the Proof of Claim, if required;~~ and all other pertinent documents sent to or received from the bankruptcy court. [[§682.402\(g\)\(1\)\(v\)\(A\)](#)]<sup>1</sup>

#### *Death Claims*

For a death **claim**, the lender must submit—in addition to the preceding items 1 through 5—an original or certified copy of the death certificate (see [subsection 13.8.C](#)). In the event of an exceptional circumstance and on a case-by-case basis, the lender must submit other reliable documentation approved by the guarantor's CEO. [[§682.402\(g\)\(1\)\(iii\)](#)]

#### *Total and Permanent Disability Claims*

For a total and permanent **disability** claim, the lender must submit—in addition to the preceding items 1 through 5—a completed Loan Discharge Application: Total and Permanent Disability or other form(s) approved by the **Department**. The lender must also submit a record of any payments received after the date, as certified by the

<sup>1</sup> Policy 1010 (Batch 147), approved February 21, 2008

physician, that the borrower became unable to work and earn money.

[§682.402(g)(1)(iv)]

Some guarantors have additional or alternate requirements. These requirements are noted in [appendix C](#).

### 13.1.E Missing Claim File Documentation

If a [lender](#) submits a [claim](#) file with any required [documentation](#) missing or incomplete, or if the [guarantor](#) determines that more information is needed to process the claim, the guarantor may attempt to obtain the necessary documentation or return the claim file to the lender with a request for the missing documentation.

To expedite the claim filing process and avoid the return of claim files to the lender, the guarantor may use a fax machine to request and receive missing information from lenders. The types of documentation that may be transmitted and received by fax include, but are not limited to, the [application](#), [promissory note](#), [promissory note assignment](#), [payment history information](#), [deferral](#) or [forbearance](#) documentation, and missing collection history. In the case of documentation where an original or true and exact copy may be required (such as the promissory note), the lender may fax a copy of the document so that the guarantor can continue processing the claim. However, the lender must, within the time frame established by the guarantor, forward the original document—or a copy certified as true and exact—to the guarantor to avoid a future claim return.

- ▲ Lenders may contact individual guarantors for information on faxing claim file documentation. See [section 1.5](#) for contact information.

If a lender is unable to provide requested documentation, the loan may be subject to [interest](#) penalties or [due diligence](#) violations. If a lender is unable to provide accurate payment information, as required on the Claim Form, the [guarantee](#) on the loan may be canceled. However, the lender may attempt to have the loan's guarantee reinstated in many cases by following the applicable [cure](#) procedures (see [section 14.5](#)).

In some cases, an indemnification [agreement](#) will be accepted if a lender is unable to provide required documentation for claim filing.

- ▲ Lenders may contact individual guarantors for information on the use of indemnification agreements to substitute for documents required in the claim file. See [section 1.5](#) for contact information.

### 13.1.F Missing Payment History

A guarantor views a period of missing payment history as a serious due diligence violation that must be cured, regardless of the length of the period. A loss of guarantee on a loan will result during any period for which all, or a portion of, the payment history is missing. For more information on this violation and how it may be cured, see [subsections 14.1.C](#) and [14.5.C](#), respectively.

### 13.2 Claim Returns

A [guarantor](#) will return (send back) a [claim](#) to the [lender](#) under certain circumstances. The guarantor will notify the lender of the reason for the return. Most claim returns occur for one or more of the following reasons:

- The lender incurs a violation(s) that results in a loss of guarantee on the loan.
- The claim package contains inadequate documentation.
- The borrower is found not to be in a default status.
- The lender is unable to provide sufficient documentation to justify the claim.
- The borrower is actually eligible for a loan when a lender incorrectly determines that he or she is ineligible, or if ineligible, is not ineligible *solely* due to his or her own error (e.g., when a lender receives retroactive information that a student never enrolled although the student actually attended classes).

~~A guarantor may not return a claim due to errors in repayment conversion, due diligence, or timely filing to a lender or lender servicer designated as an exceptional performer. However, if the lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (such as due to a previous, unresolved loss of loan guarantee) the guarantor must return the claim file despite the lender's or servicer's exceptional performer designation.~~

[§682.415(b)(5)(i); DCL FP 04 04]<sup>1</sup>

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

The guarantor is required to return the claim or discharge request to the lender within a specific number of days after receiving the claim or discharge request, as follows:

- 90 days for a default, total and permanent disability, or closed school claim.
- 45 days for a bankruptcy claim, a death claim, or an unpaid refund discharge.
- 120 days for a false certification claim (90 days to determine the loan’s eligibility for discharge, and another 30 days to authorize payment of the claim or return it to the lender).  
[§682.402(d)(6)(ii)(G)(2); §682.402(e)(6)(iv) and (e)(7); §682.402(h)(1)(i); §682.406(a)(8)]

If a claim is returned with a request that the lender resume servicing, the lender must resume servicing the loan at the point of [delinquency](#), if any, that existed on the loan immediately before the claim was filed (see [section 12.9](#)).

### 13.2.A Refiling the Returned Claim

A lender may refile a returned claim if it reviews the returned claim, satisfies all requirements for refiling the claim, and determines that the loan is still eligible for claim purchase. The lender’s refiling of a claim is subject to the following requirements, as applicable:

- A [bankruptcy](#) claim must be refiled within 30 days after the lender’s receipt of the returned claim. Failure to refile a bankruptcy claim by the 30th day will result in an [interest](#) penalty, provided the late refile has not resulted in the guarantor’s missing any court-established deadlines for bankruptcy activity.
- Any other claim must be refiled within 60 days after the lender’s receipt of the returned claim. However, claims refiled on the 31st through the 60th day inclusive are subject to certain restrictions, as outlined in [section 14.4](#).  
[§682.406(a)(6); DCL 96-L-186/96-G-287, Q&As #36 and #37]

In absence of evidence to the contrary, the lender’s receipt date is considered to be the date the guarantor returned the claim plus 5 days (for mailing).

For information on penalties for failure to resubmit returned claims timely, see [Section 14.4](#). ~~In the case of a loan filed by a lender or servicer that has been designated~~

~~an exceptional performer by the Department, no interest limitations are incurred due to untimely refiling of returned claims.~~

[§682.415(b)(7)(i)]<sup>1</sup>

### 13.2.B Claim Recalls

A lender is strongly encouraged to work with a borrower in any situation in which the borrower shows willingness to repay the debt. In such cases, the lender is strongly encouraged to [recall](#) the [claim](#) when appropriate. If a lender chooses to recall a claim but the [guarantor](#) is unable to stop the claim payment, the lender may recall the claim by remitting an amount equal to the claim payment to the guarantor within 30 days of receiving the claim payment.

A lender is required to recall a claim if any of the following situations occur before the guarantor purchases the claim:

- The loan is brought 210 or fewer days delinquent by the lender’s receipt of a payment or by the lender’s approval of a verbal or written forbearance agreement. In the case of a discretionary forbearance, the lender must also obtain a signed agreement to repay the debt which, at the lender’s discretion, may be included in the context of a written forbearance agreement or may be separate. The discretionary forbearance should bring the account current (see [section 11.19](#)).
- The borrower requests a [deferment](#) and submits all necessary documentation, and the documentation indicates that the borrower’s eligibility began before the date of [default](#). An [administrative forbearance](#) may be granted to cover any period of delinquency occurring before the deferment start date.
- The [borrower](#) requests a [mandatory forbearance](#) and submits all necessary [documentation](#), and the documentation indicates that the borrower’s eligibility began before the date of [default](#).
- The [lender](#) becomes aware of the borrower’s eligibility for a [mandatory administrative forbearance](#) (disaster relief, military mobilization, etc.) and the borrower’s eligibility began before the date of default.
- The lender receives information or documentation (such as continuous in-school enrollment verification) that eliminates the default status.

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

- The guarantor will pay 98% of the outstanding principal and eligible interest for each of the following types of claims:
  - A default claim filed on a loan that was first disbursed or consolidated on or after October 1, 1993, but before July 1, 2006.
  - An ineligible borrower claim filed on a loan that was first disbursed on or after October 1, 1993, but before July 1, 2006.  
[HEA 428(b)(1)(G)]
- The guarantor will pay 97% of outstanding principal and eligible interest for a default claim filed on a loan first disbursed on or after July 1, 2006, or consolidated on or after that date.  
[HEA 428(b)(1)(G)(ii)]
- ~~The guarantor will pay 99% of outstanding principal and eligible interest on a default claim filed on or after July 1, 2006, by a lender or servicer that has been designated as an exceptional performer—except on a loan that the lender is required to exclude from this designation. Claims filed on qualifying loans made by an exceptional performer are not subject to interest penalties or claim rejection. For more information on being designated as an exceptional performer and on maintaining that designation, see subsections 3.9.A and 3.9.B, respectively.  
[HEA 428(l)(b)(1)]<sup>1</sup>~~
- The guarantor will pay 100% of outstanding principal and eligible interest for each of the following types of claims:
  - A default claim filed on a loan that was first disbursed before October 1, 1993.
  - A non-default claim, such as a death, disability, bankruptcy, false certification, or closed school claim.
  - An ineligible borrower claim on a loan that was first disbursed on or after July 1, 2006.
  - A claim on a loan made under Lender of Last Resort (LLR) provisions.  
[§682.415(b)(5)(i); DCL GEN-06-02]

### 13.3.B Amount of Interest Purchased on Eligible Claims

Generally, if a lender has complied with all applicable due diligence and loan servicing requirements, a guarantor will pay the applicable percentage of the outstanding eligible interest owed from the interest-paid-through date through the date the guarantor pays the claim. The percentage of the outstanding eligible interest owed that the guarantor will pay is based on ~~whether the lender or servicer is designated as an exceptional performer~~ the requirements set forth in Subsection 13.3.A.<sup>2</sup>

If the lender has committed certain violations of servicing requirements, but the loan is otherwise eligible for claim purchase, the guarantor will:

- Assess an interest penalty according to the type of violation or error that was made.
- Pay the applicable percentage of outstanding eligible interest for which the lender is eligible. (See subsection 13.3.A for information regarding applicable insurance rates.)  
[§682.404(a)(1)]

It is possible for a lender to incur more than one type of interest penalty and for more than one interest penalty to be assessed. For example, if a lender services a loan with nonreinsured capitalized interest from a previous period during which the loan lost its guarantee and then commits due diligence violations that result in a penalty, the lender's payment on the loan will not include the nonreinsured capitalized interest or any penalty interest for violations in the current due diligence cycle.  
[§682, Appendix D]

For more information on interest penalties, see section 14.3.

- ▲ Some guarantors may limit the amount of interest paid if the guarantor's agreement with the lender does not cover all of the accrued interest. See section 1.5 for contact information.

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

<sup>2</sup> Policy 1005 (Batch 147), approved February 21, 2008

### 13.3.C Amount of Interest Purchased on Returned Claims

For a **default** claim, a guarantor's purchase of interest is not affected by the return of the claim, provided the lender refiles the claim in a timely manner (see [subsection 13.2.A](#)). Generally, interest will be purchased from the interest-paid-through date on the loan through the claim purchase date, subject to any other interest penalties or limitations that apply.

After calculating the amount of interest for which the lender is eligible, the guarantor will pay 98% of that interest for loans disbursed on or after October 1, 1993, and before July 1, 2006, or consolidated during that time. For loans first disbursed on or after July 1, 2006, the guarantor will pay 97% of eligible interest. Regardless of the loan's first disbursement date, if the loan was made under Lender of Last Resort provisions, the guarantor will pay 100% of eligible interest. ~~For default claims filed on or after July 1, 2006, by a lender or servicer designated as an exceptional performer, the guarantor will pay 99% of eligible interest. [§682.404(a)(1); HEA 428(b)(1)(G)(ii); HEA 428(d)(b)(1)]<sup>1</sup>~~

If a death, a **disability**, a closed **school**, a false **certification**, a **bankruptcy**, or an ineligible borrower claim is returned due to inadequate **documentation**, the guarantor's purchase of interest—if the lender does not incur any penalties for due diligence violations (as applicable, see [section 14.3](#)) or for failure to meet timely filing or refiling deadlines—is as follows:

- The interest that accrues from the lender's current interest-paid-through date to the date the lender receives notification of the borrower's condition.
- The interest that accrues during the claim preparation period through the date the lender files the claim with the **guarantor**, not to exceed the original filing deadlines outlined in [section 14.4](#).
- The interest that accrues from the date the lender receives a claim returned by the guarantor for additional documentation through the date the lender refiles the claim, provided that the period does not exceed 30 days following the return of the claim to the lender by the guarantor as outlined in [section 14.4](#).

- The interest that accrues from the lender's timely claim filing or refiling date through the date the guarantor pays or returns the claim to the lender. [§682.402(h)(3)(ii); DCL 96-L-186/96-G-287, Q&A #34]

### 13.3.D Amount of Interest Purchased on Cured Loans

In the case of a claim on a loan for which a cure procedure was performed, **interest** will be purchased as follows—depending on whether performance of the cure procedure resulted in the reinstatement of the guarantee on the loan:

- If the violation was cured and the guarantee was reinstated based on the receipt of one full payment or a new repayment agreement signed by the borrower, interest will be purchased up to the date of the earliest unexcused violation and from the reinstatement date (the date the loan was cured) through the date the guarantor purchases the claim, subject to any further interest penalties or limitations that apply.
- If the lender completed the **intensive collection activities (ICA)**/location cure (see [section 14.6](#)) and did not receive a full payment or new repayment agreement signed by the borrower, the guarantee is not reinstated and interest will be purchased only from the interest-paid-through date (IPT date) through the earliest unexcused violation date. The guarantor will honor reinsurance claims on the outstanding principal balance of those loans along with unpaid interest minus any applicable interest penalties. [§682, [Appendix D, I.B.7.](#)]

Any unpaid interest accruing after the date of the earliest unexcused violation, after the date of the last payment received before the cure is accomplished, and before the date of reinstatement of the guarantee will not be purchased. The lender may capitalize the interest that accrued from the date of the earliest unexcused violation through the reinstatement date (for the period of noninsurance). However, the lender will not be reimbursed for this amount as part of any future claim payment. It is the lender's responsibility to ensure that the appropriate adjustment is made (for example, adjusting the IPT date forward to deduct such interest before submitting a request for claim payment). If it appears that the lender has not deducted interest capitalized for the period of noninsurance, the guarantor will either return the claim for

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

## 13.5 Claim Repurchase

If a lender discovers that a loan was declared to be in **default** due to circumstances beyond the control of the lender and **borrower** (rather than the borrower's action or inaction), guarantors strongly recommend that the lender **repurchase** the **claim**. Repurchases may be subject to guarantor approval.

A lender may be required to repurchase a claim if the guarantor becomes aware that the claim was inadvertently purchased due to circumstances such as the following:

- The lender incurred a servicing error (such as posting the borrower's payments to the wrong loan) or regulatory violation resulting in a loss of guarantee on the loan.
- New information is obtained demonstrating that the borrower currently should not be delinquent or in default.
- The **school** failed to verify the student's enrollment status.
- A delay occurred in the processing of a **deferment** that begins prior to the date of default.
- The loan is found to be legally unenforceable.
- Other reasons as determined by the guarantor.

Any lender, ~~including a lender designated as an exceptional performer~~, is required to repurchase a loan that was paid as a **bankruptcy** claim if the bankruptcy is subsequently dismissed by the court or, as a result of the **hearing**, the loan is considered nondischargeable and the borrower is responsible for repayment of the loan.

[§682.402(f)(4)]<sup>1</sup>

If the guarantor purchases a default claim and later receives documentation that the date of the bankruptcy petition preceded the date of default (the 270th day of delinquency for most claims), the lender will be required to repurchase the loan unless the loan is determined by the court to be dischargeable in the bankruptcy action. The repurchase requirement does not apply in the case of a loan that is filed as a default claim and the date of default precedes the petition date.

[§682.402(j)]

If a claim is paid by the guarantor and the loan is later ruled by a court to be unenforceable against the borrower solely due to the lack of evidence of a **Confirmation** or **Notification** process or processes, the lender must repurchase the claim from the guarantor and refund to the Department any **interest benefits** and **special allowance** payments collected by the lender on the loan.

[§682.406(c)]

A guarantor will notify the lender in writing of the guarantor's recommendation or requirement to repurchase a claim. If the lender disagrees with any aspect of the recommendation or requirement to repurchase, the lender should notify the guarantor and submit any new pertinent information on the loan. In the absence of a valid appeal, a guarantor-initiated repurchase must be finalized by the lender within 60 days of the lender's receipt of the request.

A **lender** may choose to initiate a **repurchase** at any time by contacting the **guarantor**. After the guarantor receives the lender's repurchase request and any supporting **documentation**, the guarantor will contact the lender to advise whether the request has been approved or denied. If the request is approved, the lender will be quoted the repurchase amount due. The guarantor may elect to waive some or all of the accrued **interest** and collection costs during the post claim period.

The lender may capitalize outstanding interest according to provisions in **section 10.10** and **subsection 11.20.O**.

If a lender chooses to **recall** a claim but the guarantor is unable to stop the claim payment, the lender may recall the claim by remitting an amount equal to the claim payment to the guarantor within 30 days of receiving the claim payment. If a claim is later filed, the lender must provide a complete history from the **out-of-school date** reported on the Claim Form. (Refer to **subsection 13.1.D** for documentation requirements.)

### Repurchase of Defaulted Loans

Upon receiving a lender's payment for the quoted repurchase amount, the guarantor will process the **repurchase** and provide the lender with appropriate file documentation and the original **promissory note**. Any payments received from the borrower that affect the repurchase quote will be applied as adjustments to the purchase amount or will be refunded to the lender.

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

## 13.8.A Bankruptcy

The bankruptcy discharge is intended for certain borrowers who have filed a petition for relief under the [Bankruptcy Code](#). Bankruptcy is a judicial action to halt the normal collection of debts against the petitioner, and cause those debts to be satisfied at the direction of the court. Generally, student loans may not be discharged due to bankruptcy. However, if a borrower qualifies for the bankruptcy discharge, the loan holder is reimbursed for the unpaid principal and interest on the borrower's loan(s), but the borrower is not reimbursed for any payments made on the loan(s) prior to discharge.

A lender may be advised of a borrower's [bankruptcy](#) by the borrower, but must make its determination to file a claim based on the receipt of the Notice of the First Meeting of Creditors (the Notice) or other proof of filing from the borrower's attorney or the bankruptcy court (either directly from the court or from another source).

[§682.402(f)(3)]

If a borrower [defaults](#) on a loan and then files a bankruptcy petition, the lender must file a default claim on the loan no later than the 360th day of [delinquency](#). The lender must clearly note its receipt of bankruptcy [documentation](#) in the claim file. Before filing the default claim, the lender—as [holder](#) of the loan—is responsible for performing any and all bankruptcy activity required by the court and responding to all bankruptcy correspondence.

If the bankruptcy action requires the lender to file a claim with the guarantor, the lender must file a bankruptcy claim within the applicable timely filing deadlines defined in this subsection. The lender must file the claim for the balance outstanding on the date that the lender receives the bankruptcy notice, less any funds returned by the school prior to the date on which the claim is filed. (If a lender holds loans that are not yet disbursed or are partially disbursed at the time the lender is notified of the borrower's bankruptcy filing, see [subsection 7.7.I](#) for processing information related to subsequent disbursements.) If, after claim filing, the lender receives funds returned from the school, the lender must credit those amounts to the borrower's loan and notify the guarantor of the revised claim amount.

Some guarantors have different requirements regarding the treatment of disbursements when a lender is notified of a borrower's filing for bankruptcy. These requirements are noted in [appendix C](#).

## Suspending Collection

If the lender is notified that a borrower has filed a petition for relief in [bankruptcy](#), the lender must immediately suspend any collection efforts against the borrower that are outside the bankruptcy proceeding. If the borrower filed a Chapter 12 or 13 bankruptcy, the lender must also suspend any collection efforts against any [comaker](#) or [endorser](#). Suspension of collection efforts against any comaker or endorser is optional if the borrower filed a Chapter 7 or 11 bankruptcy.

[§682.402(f)(2)(i)]

If the lender is notified that a comaker or endorser has filed a petition for relief in bankruptcy, the lender must immediately suspend any collection efforts against the comaker or endorser that are outside the bankruptcy proceeding. If the comaker or endorser filed a Chapter 12 or 13 bankruptcy, the lender must also suspend any collection efforts against the borrower and any other parties to the note. Suspension of collection activities against the borrower and any other parties to the note is optional if the comaker or endorser filed a Chapter 7 or 11 bankruptcy.

[§682.402(f)(2)(ii)]

## Filing a Proof of Claim

A [lender](#) must file a proof of claim with the [bankruptcy](#) court no later than 30 days after it receives the Notice—unless the Notice specifically states that a proof of claim is not required. If required, the proof of claim must be filed, even if a [default claim](#) has already been filed on the loan and the lender has not yet received payment from the [guarantor](#). If a proof of claim is required, the lender must immediately forward a copy of the bankruptcy notification, proof of claim, and ~~an original assignment of the proof of claim~~ all other pertinent documents sent to or received from the bankruptcy court to the guarantor. Upon claim payment, the guarantor will file a Transfer of Claim Other Than For Security form with the court to complete the transfer of the proof of claim. Once the court processes the transfer, the Notice of Transfer of Claim Other Than For Security form will be sent to the lender/servicer acknowledging the transfer of the proof of claim.

[§682.402(f)(4)]

- ▲ Lenders may contact individual guarantors for information on filing a proof of claim on behalf of the guarantor. Also, sSome guarantors may file a proof of claim on the lender's behalf. Lenders may contact individual guarantors for more information. See [Section 1.5](#) for contact information.<sup>1</sup>

<sup>1</sup> Policy 1010 (Batch 147), approved February 21, 2008



If a proof of claim is not required by the court, the lender should ensure that it is on the bankruptcy court's mailing list. This may be accomplished through either a telephone call or letter to the bankruptcy court. Doing so will ensure that the current holder receives all notices regarding the borrower's bankruptcy filing.

All notices received regarding the borrower's bankruptcy filing should be forwarded to the guarantor, within 30 days of receipt, if a claim is pending or has been paid.

### Loans Eligible for Bankruptcy Claim Payment

A lender must file a bankruptcy claim if any one of the following conditions exist:

- A borrower files a Chapter 12 or 13 bankruptcy.
- A Chapter 7 or 11 bankruptcy is converted to a Chapter 12 or 13 bankruptcy.
- A borrower files a petition for undue hardship (or adversary complaint) under a Chapter 7 or 11 bankruptcy.  
[§682.402(f)(5)(i)(A) and (C); P.L. 105-244]

In all cases, the [guarantor](#) will review the loan's servicing history to ensure that servicing requirements have been fulfilled before the date the lender was notified of the borrower's petition for bankruptcy.

If a loan is made to two borrowers as [comakers](#), the loan is dischargeable as a bankruptcy claim only if both borrowers have filed bankruptcy actions under which federal educational loans are dischargeable or if one borrower has done so and the other borrower has his or her obligation to repay the loan [discharged](#) on another basis (such as death or total and permanent [disability](#)). If only one comaker has his or her obligation to repay the loan discharged, the other comaker becomes obligated for the repayment of the remaining loan balance. However, the lender must follow bankruptcy, statutory, and case law as it pertains to comaker discharge.  
[§682.402(a)(3)]

When preparing a [claim](#), the lender must file a proof of claim with the bankruptcy court for all "asset" cases (as instructed on the Notice) and include a copy of the proof of claim and an original [assignment](#) of the proof of claim—all other pertinent documents sent to or received from the bankruptcy court in the claim file. Upon claim payment, the guarantor must file a Transfer of Claim Other Than For Security form with the court to complete the transfer of the proof of claim. Once the court processes the transfer, the

Notice of Transfer of Claim Other Than For Security form will be sent to the lender/servicer acknowledging the transfer of the proof of claim.<sup>1</sup>

### Loans Not Eligible for Bankruptcy Claim Payment

If a loan is not eligible for claim payment, the lender must hold the loan and cease collection activities until the bankruptcy action concludes. When the action concludes and the lender is notified that the loan was deemed nondischargeable, that the bankruptcy case was dismissed, or that a discharge was reversed, the lender must treat the loan as though it were in forbearance. Any accrued [interest](#) should be capitalized from the date of the bankruptcy petition to the date the lender received notification that the bankruptcy action was concluded. The lender also may include in the [administrative forbearance](#) any period before the date of the bankruptcy petition for which the borrower was delinquent.  
[§682.402(f)(5)(ii)]

The lender must return the account to repayment and schedule the next payment due date to occur no later than 60 days after receiving the notification that the bankruptcy action has concluded, if the account should be in repayment at that time. If the loan was in any other status at the time the bankruptcy notification was received, the lender should ascertain the correct status for the loan at the conclusion of the bankruptcy action and place the loan into the applicable status.  
[DCL 96-L-186/96-G-287 Q&A #67]

### Timely Filing Deadlines for Bankruptcy Claims

In the absence of information to the contrary (such as a date stamp on the Notice), a guarantor will assume that any notification provided by a bankruptcy court was received by the lender on the 5th day following the court issuance date marked on the Notice. A lender is strongly encouraged to date-stamp all bankruptcy notifications immediately upon receipt, to provide clear evidence of the receipt date. Other acceptable proof of receipt includes a letter from the lender certifying a specific receipt date or [documentation](#) in the borrower's file or the servicing history of the loan.

A bankruptcy claim and proof of claim, if applicable, must be filed with all required documents within 30 days after the lender's receipt of the Notice of the First Meeting of Creditors or other confirmation issued by the debtor's attorney or the bankruptcy court or within 30 days after the date the guarantor provides the lender with bankruptcy information and instructs the lender to file a bankruptcy claim, whichever is earlier. For more information on

<sup>1</sup> Policy 1010 (Batch 147), approved February 21, 2008

- If some—but not all—required skip tracing activities are completed, two due diligence violations will be assessed (one for “untimely” completion of the skip tracing activities and one for the skip tracing activities being incomplete). The guarantor will purchase outstanding interest that accrued through the 90th day before default.  
[§682, Appendix D, I.C.3.b.]
- If a claim is refiled with no skip tracing activity performed, three due diligence violations will be assessed, resulting in the cancellation of the guarantee.  
[§682, Appendix D, I.C.3.c and d.]

### Telephone Skip Tracing Penalties

If a lender performs some—but not all—required skip tracing activities and has no gap of 46 days or more, one due diligence violation will be assessed and the guarantor will purchase outstanding interest that accrued through the 90th day before default.

[§682, Appendix D, I.C.3.b.]

If no skip tracing activity is performed, the guarantor will return the claim for loss of guarantee. If the lender completes the skip tracing requirements and the claim is refiled within the time frames associated with the claim return (see [subsection 14.4.B](#)), the guarantor will assess penalties as follows:

- If all required skip tracing activities are completed, one due diligence violation will be assessed and the guarantor will purchase outstanding interest that accrued through the date of default.  
[§682, Appendix D, I.C.3.b.]
- If some—but not all—required skip tracing activities are completed, two due diligence violations will be assessed (one for “untimely” completion of the skip tracing activities and one for the skip tracing activities being incomplete). The guarantor will purchase outstanding interest that accrued through the 90th day before default.  
[§682, Appendix D, I.C.3.b.]
- If a claim is refiled with no skip tracing activity performed, three due diligence violations will be assessed, resulting in the cancellation of the guarantee.  
[§682, Appendix D, I.C.3.c. and d.]

## 14.3.B Non-Default Claims

For loans on which a non-default claim is filed, the prior servicing violations may affect the amount of claim reimbursement to which the lender is entitled.

### Bankruptcy Claims

If a lender incurs a [due diligence](#) violation that results in a loss of [guarantee](#) and, as of the date it learned that the borrower filed [bankruptcy](#), the violation is not yet cured, the lender may attempt to [cure](#) the violation only if the bankruptcy action has been concluded and the loan was not [discharged](#), dismissed, or the bankruptcy action in which the loan was previously discharged has been reversed. If the violation is subsequently cured, [interest benefits](#) and [special allowance](#) will be limited to those amounts accruing through the date of the earliest unexcused violation and will restart on the date that the loan is cured. Under no circumstances will a [guarantor](#) purchase a [bankruptcy claim](#) if, before the lender determines that the borrower has filed a bankruptcy petition, the lender committed a due diligence violation that resulted in a loss of guarantee and that was not cured before receiving notification of the bankruptcy filing.

[§682, Appendix D, I.E.2.]

### Claims Filed by Exceptional Performers

~~In the case of a loan filed by a lender or servicer that has been designated an exceptional performer by the Department, no penalties will be assessed for due diligence violations.~~

~~[§682.415(b)(7)(i)]<sup>1</sup>~~

### Closed School and False Certification Claims

For closed [school](#) and false [certification](#) claims, due diligence is not monitored. Therefore, no due diligence violations will be assessed.

[§682.402(a)(4)]

### Death Claims

For a death claim, due diligence activities required before the date the lender determined that the borrower (or, in the case of a PLUS loan, the dependent student) died are reviewed and penalties are assessed according to [subsection 14.3.A](#). If there are violations sufficient to result in the loss of the loan’s guarantee and the guarantee is not reinstated before the date the lender determined that the borrower (or, in the case of a PLUS loan, the dependent student) died, the

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

initial applicable 30-day, 15-day, or 25-day filing deadline through the earlier of the date on which the claim is filed as a different claim type or the date on which the loan regains its insurance. The loan is considered to regain its insurance on the date that the bankruptcy action concludes and the loan is not discharged or the date on which the discharge is reversed.

[§682.402(h)(3); DCL 96-L-186/96-G-287, Q&As #67 and #73]

### Claims Filed by Exceptional Performers

~~No penalties will be assessed for timely filing violations in the case of a claim filed by a lender or servicer that has been designated an exceptional performer by the Department.~~ [§682.415(b)(7)(i)]<sup>1</sup>

### Closed School and False Certification Claims

If a lender does not file a closed school or false certification discharge claim within the required 60-day filing period, the guarantor will purchase the claim. However, the claim will be subject to an interest penalty, and the lender will be required to repay all interest benefits and special allowance payments for amounts received or otherwise payable after the 60-day filing period.

[§682.402(h)(3)]

### Death Claims

If the lender does not file a death claim within the required 60-day filing period, the guarantor will purchase the claim—provided that the lender did not incur violations that resulted in a noncurable cancellation of the loan’s guarantee before the date it determined that the borrower or student for whom the loan was obtained died. However, the claim is subject to an interest penalty and the lender must repay all interest benefits and special allowance payments for amounts received or otherwise payable after the 60-day claim filing period. If the lender incurs a timely claim filing or due diligence violation that results in the cancellation of the loan’s guarantee and the violations are not cured before the date it determined that the borrower or student died, the guarantee on the loan cannot be reinstated. The lender also must not attempt to collect the loan.

[§682.402(h)(3)]

### Default Claims

Submission of a default claim between the 330th and 360th day of **delinquency** will result in loss of eligibility for **special allowance** beyond the 330th day of delinquency. Failure to submit a default claim by the 360th day of

delinquency will result in **cancellation** of the **guarantee** on the loan. However, the **lender** may **cure** the violation and resubmit the claim if the default remains unresolved after the loan has been cured (see **subsection 14.5.D**).

[§682.406(a)(5); §682, Appendix D, I.E.]

### Ineligible Borrower Claims

If the lender does not submit an ineligible borrower claim within the specified 120-day time frame (see **subsection 13.6.B**), or does not mail the **final demand** letter in a timely manner (see **subsection 12.4.F**), the guarantor will purchase the claim. However, the claim will be subject to an interest penalty as follows:

- If the final demand letter is mailed timely but the claim is filed *untimely*, the guarantor will pay the claim, but interest will be limited to the amount accruing through the 120th day following the date the final demand letter is mailed.
- If the final demand letter is mailed *untimely*, interest will be limited to the amount accruing through the 180th day following the date the lender determines the borrower to be ineligible.

In all cases, the lender must repay any interest benefits paid by the U.S. Department of Education on the ineligible portion of the loan.

### Total and Permanent Disability Claims

If the lender does not file a total and permanent disability claim within the required 60-day filing period, the guarantor will purchase the claim—provided that the lender did not incur violations that resulted in a noncurable cancellation of the loan’s guarantee before receiving **certification** of the borrower’s disability. However, the claim is subject to an interest penalty, and the lender must repay all interest benefits and special allowance payments for amounts received or otherwise payable after the 60-day claim filing period. If the lender incurs a timely claim filing or due diligence violation that results in the cancellation of the loan’s guarantee and the violations are not cured before the date it determined that the borrower became disabled, the guarantee on the loan cannot be reinstated. The lender also must not attempt to collect on the loan.

[§682.402(h)(3)]

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

## 14.4.B Refile Deadline

### Bankruptcy Claims

Failure to refile a bankruptcy claim by the 30th day after the lender's receipt of the original return described in [subsection 13.2.A](#) will result in loss of eligibility for interest, interest benefits, and special allowance payments beyond such 30th day, provided the late refiling has not resulted in the [guarantor](#) missing any court-established deadlines for bankruptcy activity. If the late refiling has resulted in the guarantor missing any court-established deadlines for bankruptcy, the result will be permanent cancellation of the guarantee on the loan—unless the lender can demonstrate (a) that the bankruptcy action has concluded and the loan was not [discharged](#) or (b) that the bankruptcy action in which the loan was previously discharged has been reversed or dismissed. In either case, the lender need not cure the violation; however, the loan is not eligible for interest or special allowance from the timely refiling deadline through the date the bankruptcy action was discharged, dismissed, or reversed. The lender must return the loan to the status that would have existed had the bankruptcy action not occurred and resume servicing the loan. If the loan is returned to repayment status, the lender should grant an [administrative forbearance](#) on the loan to resolve any [delinquency](#) that exists at the time the loan reenters repayment.

[§682.302(d)(1)(vii); §682, Appendix D, 1.E.2]

### Claims Filed by Exceptional Performers

~~No penalties will be assessed for timely filing violations in the case of a claim filed by a lender or servicer that has been designated an exceptional performer by the Department.~~ [§682.415(b)(7)(i)]<sup>1</sup>

### Closed School, Death, False Certification, Ineligible Borrower, and Total and Permanent Disability Claims

Failure to refile a closed school, death, false certification, ineligible borrower, or total and permanent disability claim by the 30th day after the lender's receipt of the original return will result in loss of eligibility for interest, interest benefits, and special allowance payments beyond such 30th day. If the lender does not refile the claim by the 60th day, the guarantor will pay the claim, but the lender's eligibility for interest subsidy and special allowance will end as of the 30th day after the lender's receipt of the original return.

[§682.302(d)(1)(vii)]

A second or subsequent return by the guarantor for the *same* reason, will result in loss of eligibility for interest, interest benefits, and special allowance payments beyond the 30th day after the lender's receipt of the original return.

#### EXAMPLE

The lender receives a claim returned by the guarantor for a missing promissory note. The lender refiles the claim to the guarantor 15 days after its receipt of the returned claim, but fails to include the missing promissory note. The guarantor returns the same claim a second time for the missing promissory note. The lender refiles the claim to the guarantor 20 days after its receipt of the returned claim, this time including the requested promissory note. In this case, the lender has incurred loss of eligibility for interest, interest benefits, and special allowance payments beyond the 30th day after the lender's receipt of the original return.

A second or subsequent return by the guarantor for a *different* reason will result in no loss of eligibility for interest, interest benefits, and special allowance payments provided the lender refiles the claim on or before the 30th day after the lender's receipt of such second or subsequent return.

#### EXAMPLE

The lender receives a claim returned by the guarantor for documentation to support the borrower's total and permanent disability. The lender refiles the claim with the supporting documentation to the guarantor 15 days after its receipt of the returned claim. The guarantor returns the same claim a second time for a missing promissory note. The lender refiles the claim with the requested promissory note to the guarantor 20 days after its receipt of the returned claim. No loss of eligibility for interest, interest benefits, and special allowance payments is incurred for timely resubmission of the first and second returns.

### Default Claims

The refiling of a default claim on the 31st through the 60th day inclusive after the lender's receipt of the original return will result in loss of eligibility for [interest](#), [interest benefits](#), and [special allowance](#) payments beyond the 30th day after the original return. Failure to refile the claim by the 60th day after the lender's receipt of the original return will result in [cancellation](#) of the [guarantee](#) on the loan. However, the [lender](#) may [cure](#) the violation and refile the claim if the [default](#) remains unresolved after the loan has been cured (see [subsection 14.5.D](#)).

[§682.302(d)(1)(vii); §682.406(a)(6)]

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

**EFT:** See [Electronic Funds Transfer](#)

**Electronic Funds Transfer: (EFT)** The electronic transfer of Stafford or PLUS loan proceeds from the lender to an account at the school or the school’s financial institution. See [subsection 7.7.D](#).

**Electronic Signature:** Information in electronic format that is attached to or logically associated with an electronic record and used by a person with the intent to sign the electronic record.

**Eligibility Letter:** A term used to describe the materials the Department’s Institutional Participation Division sends to a school that has received federal approval for participation in the Title IV programs. The “letter” includes an Approval Notice and a copy of the school’s Program Participation Agreement (PPA).

**Eligible Borrower:** A borrower or potential borrower who meets federal eligibility criteria for a Federal Stafford loan or, in the case of a parent borrower, a Federal PLUS loan. See [sections 5.1](#) and [5.2](#) for specific criteria.

**Eligible Student:** A student who meets federal student eligibility criteria. See [subsection 5.1.B](#) for specific criteria.

**Emergency Action:** A special action taken by the guarantor or the Department to temporarily immediately suspend a school, lender, or servicer from participation in the guarantor’s programs prior to the initiation of formal Limitation, Suspension, and Termination procedures. See [subsection 18.1.D](#).

**Endorser:** A signer of a promissory note who is secondarily liable for a loan obligation, i.e., who agrees to pay if the borrower does not. A lender may require a PLUS borrower with adverse credit to obtain a creditworthy endorser in order to receive the loan.

**Enrolled:** The status of a student who has met either of the following requirements:

- Completed the registration requirements (except for the payment of tuition and fees) at the school the student is attending.
- Been admitted into an educational program offered predominantly by correspondence and has submitted one lesson, completed by the student after acceptance for enrollment and without the help of a representative of the school.

**Enrollment Reporting:** The method by which schools confirm and report to the National Student Loan Data System (NSLDS) the enrollment status of attending students who receive Title IV loans. This process was formerly known as the Student Status Confirmation Report (SSCR).

**Entity:** For purposes of this manual, any organization, institution, government agency, nonprofit corporation, or other group that participates in federal student financial aid programs.

**Entrance Counseling (or Entrance Interview):** See [Debt-Management Counseling](#)

**Escrow Agent:** A guarantor or other eligible lender that receives the proceeds of a FFELP loan as an agent of an eligible lender for the purpose of transmitting those proceeds to the borrower or the borrower’s school.

**Estimated Financial Assistance: (EFA)** The school’s estimate of the amount of financial assistance from federal, state, institutional, or other sources that a student (or parent on behalf of a student) will receive for a period of enrollment. This may include veterans’ and national service awards and benefits (except when determining eligibility for a subsidized Stafford Loan), scholarships, grants, financial need-based employment, or loans. EFA does not include Federal Perkins loans or Federal Work-Study funds that the student has declined or certain loans used to replace the expected family contribution. See [section 6.7](#).

**Exceptional Performer:** A designation conferred upon a qualified lender, servicer, or guarantor by the Department of Education for an exceptional level of performance in servicing FFELP loans, if the lender, servicer, or guarantor requests such status and meets all statutory and regulatory requirements. ~~See [section 3.9](#) for more information. This designation was eliminated on October 1, 2007, per statutory changes from the [College Cost Reduction and Access Act \(P.L. 110-84\)](#). See History Appendix for more information.~~<sup>1</sup>

**Excess Interest Rebate:** See [Windfall Profits](#)

**Exit Counseling (or Exit Interview):** See [Debt-Management Counseling](#)

**Expected Family Contribution: (EFC)** The amount a student and the student’s spouse or family are expected to pay toward the student’s cost of attendance. The [Federal Need Analysis Methodology](#) must be used to calculate the EFC. See [section 6.6](#).

<sup>1</sup> Policy 1005 (Batch 147), approved February 21, 2008

- Based on guidance from the Department on October 1994, Lenders ~~are~~ were not permitted to adjust special allowance billings for loans for which the applicable interest rate ~~is~~ was retroactively revised. Based on guidance from the Department dated March 1, 1998, lenders were permitted to recalculate special allowance billings on loans for which the applicable interest rate was retroactively revised, for all or part of the period from July 23, 1992, to December 31, 1994. [DCLs 94-L-171 and 98-L-202]<sup>1</sup>
- Lenders for which an accurate historical record of the loan's balances is not available may calculate and provide rebates and conversion information based on the best data available.
- For loans that have been sold or bought during the period for which rebates and/or interest rate conversions are applicable, each holder of the loan is responsible for making the adjustments for periods during which they held the loan.
- When completing a Consolidation loan verification certificate for a loan to which the interest rate conversion is applicable, the variable rate should be specified.
- If a loan was filed as a claim with the guarantor, and is subsequently recalled or repurchased, the lender must convert the loan to the variable rate. If the lender is repurchasing the loan because the loan should not have been filed as a claim or because the loan is a nondischargeable bankruptcy, the interest rate must be adjusted retroactively to the point at which the loan first became eligible for the rebate or interest rate conversion.
- If the loan is being recalled or repurchased voluntarily by the lender, the lender need only apply adjustments from the day on which the loan is repurchased.
- Loans that are rehabilitated must have the interest rate reset as of the date the rehabilitated loan is purchased by the lender.
- Loans on which the guarantee is lost but that are subsequently cured must have the interest rate reset as of the date of the cure. Lenders have the option of retroactively making adjustments for periods before the cure.

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<sup>1</sup> Policy 998 (Batch 147), approved February 21, 2008

## Summary of Variable-Rate Conversion Provisions

Figure H-1

Loans Subject to Conversion	<u>Quarterly Variable Interest Rates prior to Conversion to an Annual Variable Interest Rate<sup>1</sup></u>	<u>Annual Variable Interest Rates after Conversion to an Annual Variable Interest Rate</u>
<i>Higher Education Amendments of 1986:</i>	Quarter ending 9/30/92: <b>7.03%</b>	7/1/93 through 6/30/94: <b>6.37%</b>
8%/10% Stafford loans first disbursed before July 23, 1992, when such loans are accruing at the 10% interest rate.	Quarter ending 12/31/92: <b>6.39%</b>	7/1/94 through 6/30/95: <b>7.58%</b>
	Quarter ending 3/31/93: <b>6.42%</b>	7/1/95 through 6/30/96: <b>9.07%</b>
	Quarter ending 6/30/93: <b>6.30%</b>	7/1/96 through 6/30/97: <b>8.41%</b>
8%/10% Stafford loans first disbursed on or after July 23, 1992, but before October 1, 1992, when such loans are accruing at the 10% interest rate, to borrowers who had no outstanding FFELP loans on the date the promissory note was signed.	Quarter ending 9/30/93: <b>6.30%</b>	7/1/97 through 6/30/98: <b>8.41%</b>
	Quarter ending 12/31/93: <b>6.33%</b>	7/1/98 through 6/30/99: <b>8.41%</b>
	Quarter ending 3/31/94: <b>6.39%</b>	7/1/99 through 6/30/00: <b>7.87%</b>
	Quarter ending 6/30/94: <b>6.59%</b>	7/1/00 through 6/30/01: <b>9.14%</b>
	Quarter ending 9/30/94: <b>7.40%</b>	7/1/01 through 6/30/02: <b>6.94%</b>
	Quarter ending 12/30/94: <b>7.88%</b>	7/1/02 through 6/30/03: <b>5.01%</b>
	Quarter ending 3/31/95: <b>8.71%</b>	7/1/03 through 6/30/04: <b>4.37%</b>
		7/1/04 through 6/30/05: <b>4.32%</b>
	7/1/05 through 6/30/06: <b>6.25%</b>	
	7/1/06 through 6/30/07: <b>8.09%</b>	
	7/1/07 through 6/30/08: <b>8.17%</b>	
<i>Higher Education Amendments of 1992:</i>	Quarter ending 9/30/92: <b>6.88%</b>	7/1/93 through 6/30/94: <b>6.22%</b>
Stafford loans first disbursed at a fixed rate (7%, 8%, 9%, and 8%/10% loans when accruing at 8% and 10%) on or after July 23, 1992, to borrowers who had outstanding FFELP loans on the date the promissory note was signed.	Quarter ending 12/31/92: <b>6.24%</b>	7/1/94 through 6/30/95: <b>7.43%<sup>1,2</sup></b>
	Quarter ending 3/31/93: <b>6.27%</b>	7/1/95 through 6/30/96: <b>8.92%<sup>2,3</sup></b>
	Quarter ending 6/30/93: <b>6.15%</b>	7/1/96 through 6/30/97: <b>8.26%<sup>2,3</sup></b>
	Quarter ending 9/30/93: <b>6.15%</b>	7/1/97 through 6/30/98: <b>8.26%<sup>2,3</sup></b>
	Quarter ending 12/31/93: <b>6.18%</b>	7/1/98 through 6/30/99: <b>8.26%<sup>2,3</sup></b>
	Quarter ending 3/31/94: <b>6.24%</b>	7/1/99 through 6/30/00: <b>7.72%<sup>1,2</sup></b>
	Quarter ending 6/30/94: <b>6.44%</b>	7/1/00 through 6/30/01: <b>8.99%<sup>2,3</sup></b>
	Quarter ending 9/30/94: <b>7.25%<sup>1,2</sup></b>	7/1/01 through 6/30/02: <b>6.79%</b>
	Quarter ending 12/30/94: <b>7.73%<sup>1,2</sup></b>	7/1/02 through 6/30/03: <b>4.86%</b>
	Quarter ending 3/31/95: <b>8.56%<sup>2,3</sup></b>	7/1/03 through 6/30/04: <b>4.22%</b>
		7/1/04 through 6/30/05: <b>4.17%</b>
		7/1/05 through 6/30/06: <b>6.10%</b>
		7/1/06 through 6/30/07: <b>7.949%<sup>2</sup></b>
	7/1/07 through 6/30/08: <b>8.02%<sup>3</sup></b>	

<sup>1</sup> Quarterly interest rates are determined by adding 3.25% for the "1986 loans" or 3.10% for the "1992 loans" to the average of the bond equivalent rate of the 91-day Treasury bill rate as auctioned for the preceding 3-month period.

<sup>1,2</sup> Because the variable rate for Stafford loans in this category may not exceed the original interest rate, this variable interest rate does not apply to Stafford loans first disbursed at a fixed 7% interest rate, which are capped at 7%.

<sup>2,3</sup> Because the variable rate for Stafford loans in this category may not exceed the original interest rate, this variable interest rate does not apply to Stafford loans first disbursed at a fixed 7% or 8% interest rate, which are capped at 7% and 8%, respectively.<sup>1</sup>

<sup>1</sup> Policy 998 (Batch 147), approved February 21, 2008